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ABSTRACT

Despite the efforts of an array of Federal, State, and private agencies, the spectre of fraud in higher education is increasingly common. The logical arena for corrective action is the states. It is they who hold the authority to charter, license, and in essence permit America's more than 1,000 private degree-granting institutions to exist. But only 25 states in the country can claim functioning licensing operations. The methods and criteria by which state licensing operates remain elusive and poorly defined. Features of nontraditional education such as time- and place-free degrees and credit for prior learning leave licensing officials groping for standards. Complicating the situation is the rapid change from single-campus tradition to an interstate marketplace in which institutions of all persuasions are setting up extensions and external-degree programs far from home. Recommendations are that: (1) nonlicensing States get into the act; (2) a comprehensive interstate information clearinghouse be set up; (3) technical assistance and research services be given to the sparse and untrained staffs that comprise licensing authority in most states; and (4) additional conferences and active participation of state licensing officials in all aspects of the reform movement. (Author/KE)

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THE
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Suite 310
1001 Connecticut Avenue, N.W.
Washington, D. C. 20036

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APPROACHES TO STATE LICENSING OF PRIVATE DEGREE-GRANTING INSTITUTIONS

The Airlie Conference Report

Postsecondary Education Convening Authority
1001 Connecticut Avenue, N.W., Suite 310
Washington, D. C. 20036
(202) 833-2745

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EXECUTIVE SUMMARY

APPROACHES TO STATE LICENSING OF PRIVATE DEGREE-GRANTING INSTITUTIONS

FLORIDA STATE LICENSING OFFICIALS RECENTLY SHUT DOWN A "DIPLOMA MILL" THEY HAD PREVIOUSLY CHARTERED. UNDETERRED, THE OPERATION MOVED TO DELAWARE WHERE IT RECEIVED A CHARTER, BUT FAILED TO ATTRACT STUDENTS. FOLLOWING A SIMILAR ESCAPADE IN MISSOURI, THESE EDUCATIONAL ENTREPRENEURS WENT WEST TO ARIZONA, PAID $100, AND RECEIVED A FOURTH CHARTER. ARMED WITH THIS AND AN ARIZONA POST OFFICE BOX NUMBER, THEY WERE SOON BACK IN BUSINESS IN FLORIDA -- SAFELY OUT OF REACH OF THE LAW.

Despite the efforts of an array of Federal, State and private agencies, the spectre of fraud in higher education is increasingly common. Organizations of dubious intent are clearly able to slip undetected through the lumbering and uncoordinated regulatory system.

The logical arena for corrective action is the States. It is they who hold the authority to charter, license, and in essence permit America's more than 1,000 private degree-granting institutions to exist. A significant step towards reform was recently taken by six concerned State licensing officials. With the support of the Institute for Educational Leadership's Postsecondary Education Convening Authority (PECA), this group organized the first national conference of State officials who license private degree-granting institutions. Surprisingly, at the time, there were no existing records of who, in which States, performed what kind of licensing functions. Perseverance, however eventually yielded a conference attended by licensing officials from 30 States and a lucid and startling conference report which represents the only current and comprehensive document on the problems and practice of licensing private degree-granting institutions.

THE GROUND RULES

The basics of the licensing system are illuminating. Chartering, for example, is usually an exercise in paper work by which private colleges and universities (along with drugstores and other business) get permission to open shop. Substantive review is rarely required. While all States issue charters, only some require licenses. Broadly defined, licensing is an ongoing system of regulation imposed as a condition for operation. Its frequently conflicting objectives are to protect the student from fraud, assure the public of the credibility of degrees, and guard against the decline of institutional standards.

THE LIMITS OF LICENSING

The conference report notes that "the tradition is one of virtually free and untrammeled operation by private institutions within the States." Conferees reported ample evidence in support of this position. It emerged that only 25 States in the country can claim functioning licensing operations. Of these, 18 reported statutes which exempted all regionally accredited schools from review. Others excluded entire categories of institutions ranging from those founded before a certain date to those teaching a specific subject. Some lamented that they had no effective means by which to learn of the existence of new institutions. A school might get a charter and be in business for months before a newspaper ad or an unhappy student brought it to the attention of authorities. Then there are problems which arise from the definitions of degrees and the exotic labels which can be devised to escape regulation. Add to these the games people play with State boundaries -- offering a course in one State and conferring the degree in another, non-licensing State -- and the wonder is that the system has worked at all.

This is a set of problems worthy of the efforts of legions of experts. With few exceptions, however, conferees reported the licensing function was the part-time responsibility of a single person. Three of the most common and critical problems they face are presented in the report.

THE RIGHT APPROACH

The methods and criteria by which State licensing operates remain elusive and poorly defined. Conferees described three major approaches. There is first the "minimum standards" tack by which States stipulate that such basics as libraries and credentialed faculty are imperative. An alternate method is the "realization of objectives" route which permits institutions (usually well-established ones) to set their own goals while officials monitor their progress. Finally there is the "honest practice" approach in which, regardless of school objectives, officials are charged with insuring that no promises are broken -- accounts must balance, catalogues and courses match and graduates get jobs in their specialized fields. Each approach comes equipped with a variety of problems and, conferees reported that they tended to eclectically apply aspects of all three methods.

THE NONTRADITIONAL HURDLE

Features of nontraditional education (NTE) such as time- and place-free degrees and credit for prior learning leave licensing officials groping for standards. The potential for abuse of NTE is obvious, but equitable and effective means of assuring quality have not been forthcoming. Conferees described various approaches to NTE, none of which seemed universally satisfactory.

THE INTERSTATE MARKET PLACE

The single-campus tradition is rapidly giving way to an interstate market place in which institutions of all persuasions are setting up extensions and external-degree programs far from home. Regrettably, licensing laws are only beginning to catch up with this trend. Conferees reported that they are under increasing pressure to do something about these "foreigners." But the laws, which may even exempt out-of-state operations from review, get in the way. Consider the unhappy position of a State which imposes need-for-services tests upon its own institutions but is powerless to apply similar standards to those coming from outside. Interstate commerce laws are an additional constraint. It is illegal, for example, to protect in-state institutions

from outside competition. But, the report laments, the line between protecting institutions and protecting the public has yet to be clearly drawn by the courts.

NEXT STEPS

Amid all this gloom the report underscores the reality that things are getting better. Most effective legislation which does exist has been initiated within the past few years. Many States have or anticipate new and stronger laws, some of which are based upon the comprehensive model developed by the Education Commission of the States. Since 1971, for example, the State of Florida alone has closed down over 100 substandard institutions.

In this optimistic spirit the conferees embraced the following recommendations:

1. Every effort must be made to encourage non-licensing States to get into the act. "Given the popularity of interstate operation the system will never be stronger than its weakest link."

2. There is a compelling need for a comprehensive information clearinghouse which will give Delaware, for example, easy access to the actions Florida took towards an institution.

3. The sparse and untrained staffs which constitute the licensing authority in most States are in dire need of technical assistance and research services to deal with such issues as NTE, out-of-state operations and complex legal questions.

4. The report emphasizes the need for additional conferences and for the active participation of State licensing officials in all aspects of the reform movement.

The appendix of the conference report offers a directory of licensing officials throughout the country and a comprehensive inventory of licensing structures and patterns in the States.

Postsecondary Education Convening Authority
Institute for Educational Leadership
The George Washington University
November 10, 1975

Preface

"Approaches to State Licensing of Private Degree-Granting Institutions" is the second report issued by the Postsecondary Education Convening Authority (PECA) in the Institute for Educational Leadership's series of reports to the educational community. It is the report of a working conference for State licensing officials sponsored by PECA at the Airlie Conference Center near Washington, D. C. on July 10-12, 1975.

We like to think of this document as something more than a conference report. On the one hand, it is a clear and cogent synthesis of a series of complex but tightly linked issues. On the other, it is a practical primer/handbook/dictionary, all in one, of the state of the State licensing scene.

The unenviable task of assembling the conference report in a form, style, and length for busy educators and public officials was assumed by Theodore Marchese, Director of Institutional Research at Barat College in Illinois. A lawyer, educator, and writer, Ted is also a master rapporteur and synthesizer, as both this report and his initial account of the conference, delivered at the final session, attest (Appendix F). Ted drafted the final report from the conference notes, conference survey, and the vast amount of materials distributed by the conferees. Before going to the printer, the report was reviewed and edited by the State licensing officials who comprised the conference planning committee.

A word about the planning committee. In my five years as a convener of people in postsecondary education, I've had the opportunity to work with many very good planning committees. The committee that designed

the licensing conference was unique. Never have I worked with a group that combined hard work, good ideas, comaraderie, and good humor quite like these six State officials: Marvin Farbstein, Maryland; Wayne Freeberg, Florida; Arlene McCown, District of Columbia; William Moore, Massachusetts; James F. Rogers, Kentucky; and Paul Sartori, Virginia.

I wish to express a special thanks to Arlene McCown who, as my licensing "mentor," led me through the complex maze of issues in State approval to a point of at least some understanding and who first urged PECA to sponsor such a conference. Arlene also compiled the data on State licensing structures (Appendix G).

My thanks, too, go to Paul Shapiro, a consultant in Washington who prepared the report of the conference survey (Appendix B), and to Diane Brundage, an Education Policy Fellow at the Institute this year, who wrote the summary of the report.

Finally, I want to thank Russell Edgerton, Deputy Director of the Fund for the Improvement of Postsecondary Education. As project officer for the Fund grant which made the conference possible, Russ provided valuable counsel and moral support.

Additional single copies of this report are available by writing or calling the Convening Authority (202) 833-2745.

Kenneth C. Fischer
Director
Postsecondary Education
Convening Authority

Institute for Educational Leadership
The George Washington University

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I. INTRODUCTION

The past two years have witnessed a remarkable upsurge of concern over fundamental ground rules of institutional practice in postsecondary education. Consumer advocates, after years of focus on bad practice in the business world, now are raising important questions about protection of the "student-consumer" in the "educational marketplace." Federal officials, stung by widely publicized scandals in their two billion dollar financial aid programs, are hard pressed to rethink questions of who the money is for and on what terms. State governments, especially with the emergence of a bewildering array of "nontraditional" forms of education, face tough new questions as they attempt to assure quality and protect the public while encouraging innovation.

Essentially, there have been two concerns at work, one negative, one positive. In a negative sense, there exists a need to prevent fraud in postsecondary education, whether it takes the form of an unscrupulous degree mill, financial aid abuse, or institutional misrepresentation to the prospective student. In a positive sense the need is for public policy which promotes rational, cost-effective, competitive, and high-quality postsecondary education responsive to social and individual needs.

Straddling both concerns is the existing "system" of chartering, licensing, approving, accrediting, and certifying postsecondary institutions. Its importance is critical: it sets the terms for entry and practice in the educational market-place. As they have emerged

historically, however, review systems are spread across a confusing array of Federal, State, and private agencies. These three systems overlap, are uncoordinated, communicate poorly, and operate with different understandings. Most critically, they have not brought about desired standards of consumer protection or of educational quality.

At the national level, a good deal of responsive activity has been initiated. Hearings have been held, and bills have been introduced in Congress. Federal agencies have been meeting to work out new strategies for consumer protection in education. At least two national conferences on the issue have been held and a national study issued. Regional and specialized accrediting associations have begun to reassess their roles. Public awareness of the issue has been raised by media coverage. Just this year, Federal agencies have proposed stringent new rules for proprietary schools, imposed new disclosure requirements on institutions handling financial aid, and funded a set of institutions to begin development of a "prospectus" providing better information for student choice.

Important as these developments are, effective action in many cases will be at the State level. For it is the States to which are reserved the most fundamental of powers, that of chartering and licensing educational institutions. State permission to operate precedes the act of accrediting and is often a basis for eligibility for Federal funding. States play important policy roles in the development of postsecondary systems and are the usual first line of defense against fraud.

Most States distinguish among three classes of postsecondary institutions. First, there are the public institutions of which the

founding, funding, and regulation is the usual responsibility of a State governing or coordinating board. Next are the private, non-degree-granting institutions (encompassing most of the proprietary schools). At least 46 States have a regulatory mechanism for this sector, and, for State officers performing this function, there is a National Association of State Administrators and Supervisors of Private Schools. Finally, there are the private degree-granting institutions, over a thousand in number, typically non-profit, ranging from well-established undergraduate and graduate universities to new time-and-place-free external degree "institutions." Only a minority of States have effective regulatory mechanisms for this sector, and there is no national forum for officials performing the function.

In fact, crucial and interdependent as its role is, the latter set of officials had never met as a group. This past spring, then, a small group of State licensing officials,* recognizing the need for improved communication, set about planning a first national conference of State officials charged with the licensing of private degree-granting institutions. Such a conference was held, July 10-12, 1975 at Airlie Conference Center near Warrenton, Virginia. This report summarizes transactions at that first conference.

It is instructive to recount some of the difficulties encountered by the planning committee in getting together their colleagues. Lacking organization or staff, matters of funding and arrangement might have proven a critical barrier. The Postsecondary Education Convening Authority,

* Marvin Farbstein, Maryland; Wayne Freeberg, Florida; Arlene McCown, D.C.; William Moore, Massachusetts; James Rogers, Kentucky; Paul Sartori, Virginia.

a unit of the Institute for Educational Leadership and funded by HEW's Fund for the Improvement of Postsecondary Education, however, also recognized the problem. Since it is PECA's charge to bring together people with a genuine need to meet, PECA was able to provide the planning group with funds and staff assistance to convene the July conference.

An initial problem was the lack of a current and accurate roster of States and persons performing the licensing function: Does Nebraska, for example, have regulation in this area? If so, who is the person in Nebraska responsible for it? The only way to find out for sure was to get on the phone. The committee and the Convening Authority telephoned each of the fifty States plus the District of Columbia and Puerto Rico for this information. A significant product of their enterprise is the first national roster of persons directly responsible for the State licensing/approval function as it relates to private degree-granting institutions, attached as Appendix A.

Beyond the where and who, a next question was what and how each of the States do in the name of "licensing" private degree-granting institutions. Prior to the conference, the planning committee sent a questionnaire to each of the States inquiring about current practices toward the private degree-granting sector. The resulting report, prepared by Dr. Paul Shapiro, analyzes returns from 47 State-level jurisdictions (including the District of Columbia and Puerto Rico).* It is a valuable up-to-date summary of the current status of the function. It is attached as Appendix B.

* Hereinafter, for purposes of clarity and consistency, "State-level jurisdictions" will be referred to as "States."

A next task facing conference planners was to determine the issues for discussion at a first meeting of State licensing officials. The conference might, for example, have dealt with broad policy issues under national debate. Such an approach would have called for a broadly composed conference mixing licensing officials with scholars and representatives from other agencies. Instead, a judgment was made that the first need of licensing officials was to know one another and develop better understandings of their own function. This report -- the first systematic compilation of information to appear on State licensing of private degree-granting institutions -- testifies to the reality of that need.

The committee's decision to invite only those persons specifically charged with carrying out the licensing function raised interesting difficulties. The function is obviously important, and many individuals and groups thought they should be present at Airlie; they had to be turned away. A few States, for reasons kept to themselves, declined to send a representative. In others, it never was entirely clear just who should be invited.

Nonetheless, a total of 33 representatives from 30 States were present at Airlie. In the course of two days, the great variety of problems now confronting the licensing officials was reviewed, as was the variety of approaches taken among the States. Some sense of the conference is communicated on the following pages, which discuss first the conduct of State licensing, then the issues it now confronts.

II. THE CONDUCT OF STATE LICENSING

To begin with a distinction, all States "charter" private degree-granting institutions, but only some "license" them. A State charters an educational institution, as it would any corporation, at the time of its founding; in many States, educational institutions filing for incorporation do so under general statutes applying to all nonprofit corporations and are subject to no special review. Only a few States, such as New York, insist that substantive educational criteria be met prior to the issuance of a charter and the start of operations.

"Licensing" refers generally to an on-going scheme of regulation applied by a State as a condition of operation, granting degrees, or use of a collegiate name.* The conference survey of State practices found at least 34 States which said they had an agency responsible for licensing private degree-granting institutions, and 33 which had actually issued licenses. Some of the States counted in these totals, however, appear at best to have nascent or paper operations. An educated guess is that about 25 States have functioning licensing authorities at this time.

Limiting the scope of State licensing is the common practice (usually specified by statute) of excluding regionally accredited institutions from review. Eighteen of the 47 States responding to the conference survey reported such an exclusion. Conversely, Alaska, Georgia, Kentucky, Maine, Maryland, New York, Ohio, Pennsylvania, Vermont, and West Virginia exemplify States with licensing authorities which examine all private degree-granting institutions. In a great

* Although some States refer to State "approval" or "accreditation" rather than State "licensing," the planning committee decided to use the term "licensing" throughout this report for clarity and consistency.

many States, statutes exclude from licensing whole categories of institutions: those founded before a certain date, those founded with charters by special acts of the State legislature, those with Federal charters or operating on Federal property, those with religious purposes, plus a host of miscellaneous exemptions -- flight schools in one State, hospital-based nursing programs in another, and so on.

As Harold Orlans (principal author of the report Private Accreditation and Public Eligibility) remarked in a luncheon address during the conference, the tradition is one of virtually free and untramelled operation by private institutions within the States. There has always been plenty of room he noted, for evaders and frauders to operate one step ahead of the law, and no certainty the situation will ever go away. Given the number of States with weak or nonexistent legislation, Orlan's point is well made. But it fails to catch the dynamic character of State regulation of private degree-granting institutions. Most States with active licensing programs began that operation only in recent years, sometimes with dramatic results: Florida got going in 1971, for example, and has already shut down over 100 fraudulent or shaky operations. No fewer than ten of the States at Airlie had new, unimplemented legislation to work with back home, and at least that number anticipated new, strengthened legislation within a year or two. At least three States have recently adopted legislation based on a model developed by the Education Commission of the States, and their number is likely to double within a year.

State licensing, in short, has in the past few years grown from a rarely or indifferently performed function in a handful of States to a significant function in what will shortly be a total of more than half the States. In a few short years, given more time and continuing push, the function is likely to be operative in nearly all the more populous States. It will not likely emerge on its own as the uniform nationwide system that some, but not all, would like. For "frauders and evaders," however, the circle is closing.

Purposes of State Licensing

Virtually all conferees agreed that their agencies existed to protect the student, the public, and new as well as existing bona fide institutions. The student needs protection from fraud, the public assurance as to the meaning and credibility of degrees, and institutions a safeguard against the dilution or debasement of standards.

In reality, these objectives are often difficult to balance. A "student as consumer" approach, for example, may conflict with interests of institutions. Existing institutions may be at odds with public push for alternative programs and institutions in the postsecondary marketplace. The public, individual students, and institutions tend at times toward quite different educational priorities. Whose interests come first?

Trends are emerging to strengthen the State's ability to provide protection of the student and public. New procedures for investigating and resolving student complaints have been initiated by several States. In Oregon, a separate, lay-dominated board has been set up to oversee the licensing function. In Florida, operating with a new "sunshine" law, reports

of visiting teams and all board meetings are open to the public. Many licensing officials see additional student-public functions they could perform in their State, but are hampered from addressing them by an absence of legislative authority and of time, money, and staff.

Limitations upon State Action

Many licensing offices operate under statutes which, measured against today's expectations and marketplace conditions, are inadequate A fly-by-night operator, for example, may incorporate with the Secretary of State's office and be in business for months before the State's licensing officer ever finds out. All conferees agreed that each State should have procedures whereby minimum criteria must be met prior to the issuance of a charter and the start of operations.

How does the licensing office learn of the existence of sub-standard operations within its jurisdiction? Often, it seems, by chance: an ad noticed in a newspaper, maybe a letter from an irate student. What then? Most "offices" in fact are composed of one or two people, one of whom may be a secretary, the other of whom may perform the function on a part-time basis. Assistance from the State attorney general's office may be slow in coming (and inexpert); in about a dozen States, injunctions and fines are an eventual possible outcome.

Another set of problems arises from definition (or lack thereof) of terms used in statutes. What is a "degree," for example? This is a crucial question for a licensing office attempting to determine its jurisdiction, and, for that matter, for a new educational institution trying to determine what State requirements it faces. In some States,

shady operators avoid regulation by concocting fancy labels which escape definition as a "degree"; or, an institution from State X may set up an operation in State Y and avoid Y's regulation by offering there only courses leading to a degree, the degree itself being conferred from State X. A similar set of problems surrounds the use of the titles "college" and "university"; only three of the States at Airlie felt their statutes adequately defined the terms. The new ECS model legislation, it was noted, resolves most of these problems of definition.

The ECS model legislation raises a more troublesome set of points, legal in nature, though up to now somewhat hypothetical. The model statute is 41 pages in length; it spells out in careful detail why, how, and by whom the licensing function is to be performed. Many existing State statutes, however, are extremely brief. They stipulate regulation, designate a board, and leave to that board the definition and enforcement of a regulatory scheme. Has an overly broad and potentially unconstitutional delegation of legislative authority been made to an administrative board? And what if that board is top-heavy with representatives of the regulated industry? Does that board's customary way of operating meet contemporary standards of procedural due process? Can a board delegate a portion of its review responsibilities to private organizations such as accrediting agencies? One State licensing official, an attorney by training, pressed these issues at Airlie. Many delegates were left with an uneasy sense of need for legal assistance, clarification of State constitutional authority, and validation of judicial decisions.

Miscellaneous Functions

In addition to licensing institutions a number of States license institutional agents. "Agent" statutes, in theory at least, give the State additional leverage in clamping down on unethical operators.

A few States require bonding of degree-granting institutions, particularly if they are profit-making. Kentucky's system works on a sliding scale according to the institution's size. North Carolina now insists on a bond sufficient to cover the return of all pre-paid tuition should the institution fail.

At least 20 States have some provision for the preservation of student and institutional records in case of institutional closure. In some States, the State university may take over the records; in Maryland and Indiana, the State licensing office assumes the burden -- and quite a burden it may be if space and staff are limited. (It is distressing to note that many States have no provision for the maintenance of student records.)

What research on their endeavors do licensing offices conduct? Just three of the States represented at Airlie could report having done any. Most offices appear so short-staffed that research is out of the question. Many offices do, of course, have access to HEGIS and State planning data in adjoining board offices.

Some States charge fees for the licensing function. Depending on the State, a private degree-granting institution will pay zero to $100 for a license. One State collects a $25 annual renewal fee. Another bills institutions only for costs of the visiting team.

Finally, it should be noted that many State licensing offices are not separate entities but an aspect of some larger State function. The licensing official may have significant, even preceding responsibilities in another area. The office may be one devoted to an array of State certification and licensing functions, or to Statewide postsecondary planning, or be part of a 1202 Commission; it may have the complicated task of approving individual courses and programs for the Social Security and Veterans Administrations. The new licensing officer often is not a specialist per se in the analysis of postsecondary institutions and will find little opportunity for professional growth in this area of responsibility.

How Well Does It Work?

Beyond sharing with one another the ways in which the licensing function is performed, the Airlie conferees were most concerned with inadequacies of the current State "system." To be sure, almost every State could recite examples of constructive actions taken locally (unpublicized in the national media) to thwart bad practice; there is pride, too, in the fine record of States such as New York and over the clean-up in Florida. But everyone is aware, too, that the "system" is weak, and each State had its own "horror story" to tell.

To take an example: Florida recently closed down a flimsy "university" it had earlier chartered. The outfit moved to Delaware where it succeeded in getting itself a charter but failed in attracting students. After a flirtation in Missouri, it finally settled in Arizona, which collects $100 and issues a charter. Using this charter and an

Arizona post office box number, the "university" reappears in Florida to do business. Incredible? Perfectly possible and not that uncommon, according to conference participants. Delaware had no way of knowing the applicant "university" had just been run out of Florida, nor could Missouri learn of the two previous charters, nor can Florida do much about Arizona's laissez-faire approach to incorporation.

A key reality is that, given the interstate commerce clause and notions of comity among States and the disposition of entrepreneurs to operate across State lines, the "system" of licensing will never be much stronger than its weakest State link. Of course, this wasn't much of a problem when almost all institutions were campus-based and conducted programs within a single State (correspondence schools used to be the only notable exception). Now, however, dozens and perhaps hundreds of established institutions, and many not so well established, operate programs in two or more States.

Assuming there are things a State may do to assure its citizens of the bona fide nature of a program coming in from out-of-state (and more on this in the next section), a basic need is for channels of communication among State licensing offices, Federal agencies, and accrediting commissions. Delaware should be able to turn to a central source to learn whether applicants have undisclosed records in other States. A State which relies on the action of voluntary accrediting associations for licensing should be able to turn to a central source to learn promptly of any adverse accrediting decision on an institution within its borders (sometimes it will not so learn). One might think that the Federal government was able to maintain an up-to-date list of all institutions

and their status; it doesn't. It was these difficulties which prompted the first National Conference on Consumer Protection in Postsecondary Education in March 1974 to call for the founding of a clearinghouse to maintain and exchange relevant information.

Even with new mechanisms to keep up with evaders and frauders, State licensing of private degree-granting institutions, as detailed at Airlie, needs all the help it can get: better legislation, enforcement mechanisms, staff development, legal help, and public support. It has come a long way but has just as far to travel.

III. ISSUES IN STATE LICENSING

Many knotty issues confront State licensing officials today. A listing of these issues, generated in the opening session of the conference, is found in Appendix D. For the sake of focused discussion, the conference planning committee selected three broad themes around which discussion could take place during scheduled conference seminars. These themes were:

1) Legal Authority for Licensure

2) Administration and Organization of Licensing Agencies

3) Nontraditional Institutions

Other issues were discussed at "topic tables" during mealtimes, at the sessions with guest speakers, and in informal conversations. While there were issues of concern to some and not to others, three major substantive issues seemed to be on everyone's mind, and they will be taken up in turn in this section. They are:

1) What is the appropriate role of the State in licensing institutions?

2) How can States accommodate the emergence of nontraditional forms of postsecondary education?

3) How can individual States deal with out-of-state institutions?

Approaches to State Licensing

There are at least three approaches open to a State in the review of private degree-granting institutions. First, a State can license on the basis of minimum standards. The State may choose to specify, for example, that all degree-granting institutions have a board, administration, and faculty of certain characteristics, an organized

curriculum with stipulated features, a library of given size and facilities defined as adequate to the instruction offered. Among States pursuing this approach, the debate centers on what and in what detail the State should prescribe -- some want higher levels of prescription to assure "quality," others want to allow room for "innovation."

A second approach follows models developed in contemporary regional accreditation and stresses realization of objectives. Here the focus is less on a set of standards applicable to all than on encouragement for institutions to set their own goals and realize them as fully as possible. The role of the visiting team is not to inspect on the basis of predetermined criteria but to analyze the institution on its own terms and suggest new paths to improvement. This help-oriented model is especially strong in the Eastern States with large numbers of well-established institutions; in some cases, a combined State-regional team will be formed to make a single visit and joint recommendation.

A third model would take an honest practice approach. The essence of it is that one inspects to verify that an institution is run with integrity and fulfills basic claims made to the public. The honesty and probity of institutional officers, integrity of the faculty, solvency of the balance sheet, accuracy of the catalog, adequacy of student records, equity of refund policies, these and related matters would be the subject of investigation. If an institution had an occupation-related program, employment records of graduates would be examined.

It is unclear whether any State follows this model in its pure form, though it is increasingly advocated and aspects of it do appear in State criteria. A claimed advantage is that, since it does not specify curricular components or assess their strengths and weaknesses (as the other two models might), an "honest practice" approach avoids undue State "control" of education.

Each of the approaches has its advantages and limitations. Clearly stated minimum standards have the virtue of putting a clear floor on things, one readily understood by students, the public, and institutions. The approach fills a role generally abandoned by voluntary accreditation. A difficulty is that the standard typically set relates only imperfectly to quality (which is why the approach has been abandoned by the regionals); the approach, too, often is inappropriate to the review of nontraditional forms of education. Responding to the latter problem four or five States have developed separate standards for nontraditional programs, a good ad hoc response but one raising also troublesome questions of consistency.

The "realization of objectives" people have a lot less trouble with nontraditional education; all education is evaluated on its own terms. But shall all objectives be equally eligible for State licensure? A fringe Bible school or outfit selling diplomas, for example, may well be meeting at least their founders' objectives. And while the approach may be congenial to established institutions and meet a legitimate State purpose in improving them, it is less clear in what way State action then fulfills a function any different from that of regional accreditation. The approach also tends to tell students and the public less about licensed institutions than do the other two.

The "honest practice" approach has been conceived as an alternative to the preceeding two. It would discard as unworkable the minimum standards approach and leave matters of improvement to institutions and their voluntary associations of accreditation. It does do less for institutions, raises tricky questions of judgment, and may initially be misunderstood by the public. But it carves a clear, unique role for the States within a national system, one they could no doubt perform well.

These models are raised in their pure form to illustrate issues and alternatives confronting States today. Is the primary function of State licensing legal and regulatory or is it educational and developmental? What is licensing's primary constituency? The point is that there is no single, well developed, widely shared theory of State licensure operative today. In practice, the approach of many States mixes aspects of the first two models and is beginning to be influenced by the third. Further evolution is likely, especially as licensing officials have new opportunity to meet and grapple with these matters. It should be noted, however, that a State's approach is often written in legislation and is not the subject of either agency action or staff discretion.

Licensure and Nontraditional Education

The difficulty State licensing offices have with the tremendous variety of endeavor now bearing the trendy label "nontraditional" should now be obvious. In reviewing programs of nontraditional education (NTE), minimum-standards States find themselves with inapplicable standards.

"Objectives" States are confronted with unfamiliar objectives (rapid completion of degrees) and methods of attainment (three people writing one doctoral dissertation). Honest-practice people may be dismayed by the "traditional" arrangements newcomers would discard (a library or resident faculty, for example). Nontraditional educators come to see licensing officials as their adversaries. For licensing people, NTE often means headaches.

State response to NTE has been varied. Florida has developed non-statutory "office procedures" for review of NTE programs, encompassing matters such as continuity of personnel, quality safeguards, and inspection of faculty vitae. Georgia has developed new standards for NTE doctoral programs (it, like Florida, would object to a jointly done dissertation -- an approach to which other licensing officers at Airlie took exception). Pennsylvania has bent over backwards to be open to new approaches; in a recent review of Nova University (chartered in Florida and now operating in 20 States plus the District of Columbia and Puerto Rico) the Commonwealth sought to confirm the fiscal and governing integrity of Nova and inspected its internal evaluations and control systems. In New Jersey, in the name of equity, the attempt has been to develop standards as firm as those for traditional education. In the District of Columbia, two NTE programs applying for entry have been chartered and approved without a library, on the theory that the area is already rich in library resources; what the District does is make the applicant prove that in fact its students will have access to named library facilities -- an honest-practice approach.

(The rejoinder of "objectives" people is instructive: if a library is crucial to the NTE program, why not insist on evidence that students actually do make use of the accessible libraries?)

Two aspects of NTE are currently under review in several States: the granting of credit for prior learning and life experience, and the development of competency-based programs. Both present problems to a State whose standards are written in the expectation of a regular course and credit system. For that matter, there are very few people in or out of postsecondary education able to say much about what "standards" or "quality" or "honest practice" might mean in relation to these emergent practices. Licensing officials at Airlie did not oppose the two practices; many were simply unsure of how to evaluate them in a sound and fair manner. For them, with a dozen or more visits scheduled for coming months, the question of what to do is far from academic.

Summarizing the relation of State licensing to NTE, the matter, as they say, is in flux. A variety of tacks have been taken by the States, some contradictory, none to the satisfaction of all. NTE presents challenges to each of the three "theories" of State licensing, making it a high-priority item for immediate study and further discussion. NTE is all the more important to States because of its role in the next issue, that of the regulation of out-of-state institutions.

Licensing the Out-of-State Institution

The earlier example of a Florida-based university offering programs in nearly half of the States is far from isolated. A princial purveyor of continuing education in Norfolk, Virginia is a District of Columbia

university located on a Federal military installation. A Colorado institution comes to the nation's capital, gets a charter through a non-degree granting corporation, and sets up degree programs in the District of Columbia and suburban Maryland. An Iowa institution has a degree-program office in the Pentagon. A St. Louis college offers a master's program on a military base north of Chicago. A unit of the University of California operates in Cleveland. Continuing education for Indians on a South Dakota reservation is now the preserve of a Nebraska State college. A State planning board prohibits duplicate program development within the State, but then an out-of-state institution enters the State to offer the program as an external degree.

All of these examples are recent, from the past year or two. Times of shrinking enrollment and financial stringency have seemed to call forth the entrepreneur in American education, to whom State boundaries become irrelevent. The emergent postsecondary marketplace is interstate in character. Participants in that marketplace may be graduate or undergraduate institutions; public as much as private; traditional or nontraditional; and of high, medium, low or unknown quality.

Most State licensing statutes envision "private degree-granting institutions" as traditional colleges offering campus-based programs, and licensing, therefore, as an in-state function. Likewise, in most States, the licensing statute makes no provision for review of out-of-state institutions, nor does it even hint as to what their status may be.

Several statutes exclude "foreign" institutions from regulation; many sweepingly exclude all accredited institutions, in-state or out, from State review. As an example of the latter, an accredited institution from one State may open a schlock extension program in another and the latter will be powerless to challenge it.

Interstate postsecondary enterprise is far from a "bad" thing: it provides healthy competition, forcing sleepy, over-protected institutions to get on their toes; in some cases it is inventing new models for cost-effective delivery of educational service; it meets previously unserved public needs. A more active and mobile marketplace, in fact, is exactly what many national policy-makers are trying to encourage.

From a State's standpoint, however, legitimate questions can be raised. Given the State's commitment to protecting the public and students from unscrupulous operations, should it not police alike all programs offered within its boundaries, regardless of origin? How realistic is it to base an exclusion from licensing on an out-of-state institution's regional accreditation, especially since that accreditation was most likely earned on the basis of a home-campus visitation, perhaps years ago, and the new in-state program may not even be known to the regional accrediting commission? Allowances may be made for the truly innovative NTE program, but what of the extension center hundreds of miles from a home campus offering graduate degrees with no library, barely qualified and part-time faculty, no written standards, inadequate facilities, and few if any student services? A State board which, with the reasonable intent of coordinating State-wide postsecondary development, turns down program applications from its own institutions on the basis of

need, then stands aside while outsiders exploit the market, is headed for trouble, educational and political.

The politics of the matter are not underestimated by licensing officials; many are under considerable pressure to "do something about those outsiders." The position of licensing offices is made no easier by their de facto ties to the State's existing educational order. Then there are the legalities of it all. By inference from constitutional law, a State may not impose on out-of-state institutions burdens it fails to impose on its own; even-handed, nondiscriminatory treatment is a must. It is presumed that courts will react negatively, as a restraint on interstate commerce, to any State act whose predominant purpose may be to protect a local institutional or economic interest. On the other hand, regulation designed to protect the public from irresponsible and unfair dealing may pass muster. The uncertainty comes from the fact that few of these general propositions have been the subject of court test with licensing as the issue.

What are the States doing? In States with poorly developed legislation, such as Virginia, action is limited. States such as Florida, whose statutes exclude accredited institutions, are able to regulate few outsiders. Ohio and North Carolina, by administrative action, interpret their statute excluding control of "public" institutions to mean "in-state public," and treat all outside institutions coming in as they would their own privates. New York has extensive criteria for incoming institutions to meet, including a need-for-service test the same as that applied to program proposals from in-state institutions.

Several shortcomings of the State licensing function mentioned earlier apply to the regulation of out-of-state institutions. The latter may escape regulation by offering courses or a program but not the degree itself. Many States have no regular way of finding out about the entry of a foreign institution, no investigators to track it down, or reliable legal assistance to facilitate its review. An out-of state institution may locate on Federal property -- a military base, for example -- even recruit and teach off base, and be beyond the reach of State regulation.

At least six States present at Airlie attempt to impose need-for-service tests on incoming programs. These can be tricky in the extreme to apply, especially if the program in question is offered by an existing institution in the State. The obvious rejoinder of the entrepreneur is, "Why haven't I the right to try? If there is no need, or market, I'll learn soon enough." And he or she would have reasonable constitutional grounds upon which to stand; courts are likely to enjoin local restraint of trade. The State, on the other hand, should be able to restrain entirely speculative ventures which may pull up stakes at the first reverse leaving students high and dry. The problem continues under discussion, in the absence, as above, of a good court test.

IV. PRIORITIES FOR ACTION

Though the Airlie conference never got to the point of formulating and passing resolutions, at least four significant steps, most of which have been advanced in other forums, received repeated mention and would undoubtedly be embraced by most licensing officers.

First, means must be found to accelerate the entry of non-licensing States into the licensing arena. Especially as postsecondary enterprise becomes ever more interstate in character, and given limitations on any one State's ability to deal with interstate operations, everybody will be surer of good practice when effective licensing becomes nationwide. The Education Commission of the States, which two years ago published model legislation for approval of postsecondary educational institutions and authorization to grant degrees, was frequently mentioned as a respected body whose additional initiative would be welcomed.

Second, a need exists for a clearinghouse to record State licensing actions and to which States might turn for information on applicants. As a stopgap measure, it was proposed that one of the better-staffed State offices maintain on a fee basis a central card file recording names of institutions and principals and indicating actions taken by States. The larger need, though, is for a computerized system tying together the interrelated actions of State, Federal, and private agencies.

Third, a top priority for most State licensing offices is new research and technical assistance to help meet the press of emergent problems, including NTE, out-of-state institutions and legal questions both substantive and procedural. Licensing officials typically

can't get the information or help they need in-state; for that matter, practically no one is working on them at the national level; e.g., the 575-page Orlans report on private accreditation and public eligibility has almost nothing to say about State licensing of private degree-granting institutions.

Fourth, State licensing officers have a continuing need to confer and advance lines of discussion opened at Airlie. The question of the appropriate role for State licensing, for example, is ripe for consideration. And many State officers feel strongly that any new emerging national system -- discussion of which has gone forward at the Federal level -- especially one which would assign to States a particular role, must be developed with their participation. Up to now, they simply haven't been part of national discussions. Given the critical, emergent nature of their work, they need to be.

* * * * * *

Theodore J. Marchese
Director of Institutional Research
Barat College
Lake Forest, Illinois 60045

October 28, 1975

APPENDIX

Directory of Contacts for State Licensing/Approval of Private Degree-Granting Postsecondary Education Institutions

ALABAMA
John F. Porter, Jr.
Executive Director
Commission on Higher Education
Suite 1504, Union Bank Building
60 Commerce Street
Montgomery, Alabama 36104
205/832-6555

ALASKA
Clarke Damon
Program Chief
Department of Education
Pouch F
Juneau, Alaska 99801
907/586-6330

ARIZONA
Lawrence E. Woodall
Executive Coordinator
Arizona Board of Regents
Education Building
1535 W. Jefferson
Phoenix, Arizona 85007
602/271-4082

ARKANSAS
* Tom Spencer
Assistant Director
Department of Higher Education
122 National Old Lane Building
Little Rock, Arkansas 72201
501/371-1441

CALIFORNIA
Herbert Summers
Chief, Bureau of School Approvals
State Department of Education
721 Capitol Mall
Sacramento, California 95814
916/445-3427

COLORADO
* Norman Dodge
Assistant Director
Colorado Commission on Higher Education
1000 State Social Services Building
Denver, Colorado 80203
303/892-2723

CONNECTICUT
William H. James
Director of Accreditation and Scholarships
Commission for Higher Education
340 Capital Avenue
Hartford, Connecticut 06101
203/566-3910

DELAWARE
* Elizabeth C. Lloyd
Director of Teacher Education and Professional Standards
State Department of Public Instruction
Townsend Building
Dover, Delaware 19901
302/678-4686

DISTRICT OF COLUMBIA
* Arlene I. McCown
Special Assistant for Licensure
D. C. Board of Higher Education
1025 Vermont Avenue, N. W., Suite 606
Washington, D. C. 20005
202/727-2165

FLORIDA
* C. Wayne Freeberg
Executive Director
Florida Board of Independent Colleges and Universities
c/o Department of Education
Tallahassee, Florida 32304
904/488-8695

* Attended Working Conference for State Licensing Officials
July 10-12, 1975, Airlie Conference Center, Warrenton, Virginia

\# Conference Planning Committee Member

GEORGIA

* J. William Leach
Associate Director
Teacher Education and Staff Development
State Department of Education
State Office Building
Atlanta, Georgia 30334
404/656-2431

HAWAII

Albert J. Feirer
Administrator of Accreditation &
Private School Licensing
1270 Queen Emma Street
Honolulu, Hawaii 96813
808/548-4779

IDAHO

Wayne A. Phillips
Coordinator, School Construction
Department of Education
Len B. Jordan Office Building
Boise, Idaho 83720
208/384-2113

ILLINOIS

Donald L. Beatty
Director
Private Colleges & University Unit
Illinois Board of Higher Education
500 Reisch Building
119 South Fifth Street
Springfield, Illinois 62701
217/782-2551

INDIANA

Joseph A. Clark
Commissioner
Indiana Private School Accrediting
Commission
I.S.T.A. Building, Suite 810
150 West Market Street
Indianapolis, Indiana 46204
317/633-6586

* John E. Kleiman
Assistant Commissioner
Indiana Private School Accrediting
Commission
I.S.T.A. Building, Suite 810
150 West Market Street
Indianapolis, Indiana 46204
317/633-5912

IOWA

R. Wayne Richey
Executive Secretary
State Board of Regents
Grimes State Office Building
Des Moines, Iowa 50319
515/281-3934

KANSAS

L. C. Crouch
Assistant Commissioner
Division of Community Colleges
& Continuing Education
State Department of Education
120 East 10th Street
Topeka, Kansas 66612
913/296-2303

KENTUCKY

A. D. Albright
Executive Director
Council on Public Higher Education
Capitol Plaza Office Tower
Frankfort, Kentucky 40601
502/564-3553

* James F. Rogers
3110 Military Road
Arlington, Virginia 22207
703/528-2928
(Now in Washington at U.S. Office of
Education)

LOUISIANA

* Kerry Davidson
Assistant Commissioner for
Academic Affairs
Board of Regents
P. O. Box 44362, Capital Station
Baton Rouge, Louisiana 70804
504/389-5206

MAINE

Wayne R. Ross
Higher Educational Services
State Department of Educational
Cultural Services
Department of Education Building
Augusta, Maine 04330
207/289-2181

MARYLAND

* Marvin Farbstein
Consultant in Higher Education
Maryland State Department of Education
BOX 8717, BWI Airport
Baltimore, Maryland 21240
301/796-8300 ext.312

MASSACHUSETTS

* William P. Moore
Assistant Vice-Chancellor
for Academic Affairs
Massachusetts Board of Higher Education
182 Tremont Street, 14th Floor
Boston, Massachusetts 02111
617/727-5362

MICHIGAN

Mary T. Rogers
Director of Adult and
Continuing Education Services
Michigan Department of Education
Lansing, Michigan 48902
517/373-3786

* Kenneth Walsh
Supervisor of Adult Vocational Education
Michigan Department of Education
Lansing, Michigan 48902
517/373-8425

MINNESOTA

David B. Laird, Jr.
Assistant Executive Director
for Inter-Institutional Program Planning
Minnesota Higher Education
Coordinating Commission
Capitol Square Building - Suite 400
550 Cedar Street
Saint Paul, Minnesota 55101
612/296-5715

* Dale Smith
Assistant Executive Director
Higher Education Coordinating
Commission
Capitol Square Building, Suite 400
612/296-5715

MISSISSIPPI

E.E. Trash
Executive Secretary & Director
of Board of Trustees of the
State Institute of Higher Learning
P. O. Box 2336
Jackson, Mississippi 39205
601/982-6611

MISSOURI

Jack L. Cross
Commissioner of Higher Education
Department of Higher Education
600 Clark Avenue
Jefferson City, Missouri 65101
314/751-2361

MONTANA

Lawrence Pettit
Board of Regents for Higher Education
1231 Eleventh Avenue
Helena, Montana 59601
406/449-3024

NEBRASKA

* Carolyn Lee
Nebraska 1202 Commission
Box 94601
State Capitol
Lincoln, Nebraska 68509
402/471-2414

NEVADA

* Merlin D. Anderson
Administrator-Validation Services
State Department of Education
400 West King Street
Carson City, Nevada 89701
702/885-5700

NEW HAMPSHIRE

Arthur E. Jensen
Executive Director
Postsecondary Education Commission
66 South Street
Concord, New Hampshire 03301
603/271-2555

NEW JERSEY

* Matthew Quinn
Director of
Independent Colleges & Universities
State Department of Education
225 West State Street
Trenton, New Jersey 08625
609/292-2955

NEW MEXICO

Robert E. Rhodes
Academic Coordinator
Board of Educational Finance
Legislative-Executive Building, Suite 201
Santa Fe, New Mexico 87503
505/827-2115

NEW YORK

Edward F. Carr
Director
Division of Academic Program Review
Office of the Coordinator of Academic Programs
The State Education Department
99 Washington Avenue
Albany, New York 12210
518/474-3871

Sherry Penney
Associate in Higher Education
Division of Academic Program Review
State Education Department
Albany, New York 12230
518/474-2595

* Charles Meinert
Associate in Higher Education
Division of Academic Program Review
State Education Department
Albany, New York 12230
518/474-2595

NORTH CAROLINA

* John F. Corey
Assistant Vice President
General Administration
The University of North Carolina
P. O. Box 2688
Chapel Hill, North Carolina 27514
919/933-6981

NORTH DAKOTA

* Douglas W. Schulz
Committee Counsel
Higher Education Commission
North Dakota Legislative Council
State Capitol
Bismarck, North Dakota 58505
701/224-2916

OHIO

* William B. Coulter
Vice Chancellor for Administration
Ohio Board of Regents
30 East Broad Street, 36th Floor
Columbus, Ohio 43215
614/466-6000

OKLAHOMA

Gerald F. Williams
State Regents for Higher Education
118 State Capitol Building
Oklahoma City, Oklahoma 73105
405/521-2444

OREGON

* Nathan F. Cogan
Coordinator
Oregon Educational Coordinating Commission
4263 Commercial Street, S. E.
Salem, Oregon 97310
503/378-3921

PENNSYLVANIA

* Warren D. Evans
Bureau of Academic Programs
Pennsylvania Department of Education
P. O. Box 911
Harrisburg, Pennsylvania 17126
717/787-9671

RHODE ISLAND

William E. O'Brien
Consultant, Proprietary Schools
Rhode Island Department of Education
22 Hayes Street
Providence, Rhode Island 02905
401/277-2046

SOUTH CAROLINA

Alan S. Krech
Coordinator of Research
South Carolina Commission on Higher Education
1429 Senate Street
Columbia, South Carolina 29201
803/758-7681

* Joseph Pendergrass
Supervisor/Proprietary Schools
South Carolina Department of Education
Rutledge Office Building
Columbia, South Carolina 29201
803/758-7681

SOUTH DAKOTA
* Deborah Louison
Director
South Dakota Postsecondary
Education Regulatory Agency
Office of the Secretary of Education
and Cultural Affairs
State Capitol
Pierre, South Dakota 57501
605/224-3134

TENNESSEE
* George M. Roberts
Associate Director
Tennessee Higher Education Commission
908 Andrew Jackson Building
Nashville, Tennessee 37219
615/741-3605

TEXAS
* E. D. Fitzpatrick
Assistant to the Commissioner
Coordinating Board, Texas College &
University System
P. O. Box 12788
Capitol Station
Austin, Texas 78711
512/475-4361

UTAH
* Leon R. McCarrey
Associate Commissioner & Director
of Academic Affairs
Utah State Board of Regents
136 East South Temple
Salt Lake City, Utah 84111
801/328-5619

VERMONT
* Stephen L. Brandwene
General Counsel
Vermont Department of Education
State Office Building
Montpelier, Vermont 05602
802/828-3135

VIRGINIA
* Paul H. Sartori
Assistant to the Director
State Council of Higher Education
for Virginia
911 E. Broad Street - 10th Floor
Richmond, Virginia 23219
804/770-2143

WASHINGTON
* Keith Pailthorp
Educational Planner
Washington State Council for
Postsecondary Education
908 East 5th Street
Olympia, Washington 98504
206/753-2210

WEST VIRGINIA
John Wright
Vice Chancellor & Director of
Academic Affairs
West Virginia Board of Regents
13116 Charleston National Plaza
Charleston, West Virginia 25301
304/348-2101

WISCONSIN
David R. Stucki
Executive Secretary
Educational Approval Board
4802 Sheboygan Avenue
Madison, Wisconsin 53702
608/266-1996

WYOMING
Frank Supon
Director
Licensing-Certification Services
Department of Education
State Office Building West
Cheyenne, Wyoming 82002
307/777-7291

PUERTO RICO
Luis Gonzales-Vales
Executive Secretary
Puerto Rico Council on Higher Education
University of Puerto Rico Campus
San Juan, Puerto Rico
809/766-4187

OTHER CONTACTS

* Dirk A. Ballendorf
Higher Education Planning
Office of Higher Education
Pennsylvania Department of Education
Harrisburg, Pennsylvania 17126
717/787-6194

* L. D. Christensen
State Senator
North Dakota Legislative Assembly
Kenmare, North Dakota 58746
701/224-2916

* Kenneth C. Fischer (Conference Convener)
Director
Postsecondary Education
Convening Authority
Institute for Educational Leadership
1001 Connecticut Avenue, N. W., #310
Washington, D. C. 20036
202/833-2745

* Clinton D. Hamilton
Member, Florida Board of
Independent Colleges & Universities
225 East Las Olas Boulevard
Fort Lauderdale, Florida 33301
305/525-4271 ext.253, 4, or 5

* Jane Lichtman
Director
NEXUS
1 Dupont Circle
Suite 780
Washington, D. C. 20036
202/785-8480

FIPSE CONTACT

Russell Edgerton
Deputy Director
Fund for the Improvement of
Postsecondary Education
FOB #6, Room 3141
400 Maryland Avenue, S. W.
Washington, D. C. 20202
202/245-8101

* Theodore Marchese (Conference Synthesizer)
Director of Institutional Research
Barat College
Lake Forest, Illinois 60045
312/234-3000

* Harold Orlans (Conference Speaker)
National Academy of Public
Administration
1225 Connecticut Avenue, N. W.
Washington, D. C. 20036
202/659-9165

* John D. Phillips (Conference Speaker)
Deputy Commissioner
for Postsecondary Education
U. S. Office of Education
ROB #3 - Room 4092
7th and D Streets, S. W.
Washington, D. C. 20202
202/245-8311

Melinda Smart
Secretary
Postsecondary Education
Convening Authority
1001 Connecticut Avenue, N. W., #310
Washington, D. C. 20036
202/833-2745

Report of the Conference Survey on State Licensing of Private Degree-Granting Institutions

prepared by
Paul Shapiro

I. Purpose

The purpose of this questionnaire was to obtain some basic, comparable information on State practices relating to the licensing of postsecondary institutions. This information should aid responsible State licensing officials in identifying common problems, needs and interests.

II. Response Rate

This analysis and the accompanying tabulation are based on returns from 47 State-level jurisdictions, including the District of Columbia and the Commonwealth of Puerto Rico.* The States which did not respond are: Hawaii, Iowa, Mississippi, Missouri, and Wisconsin.

III. Data Analysis

A. Licensing Authority

Thirty-four States reported that they have an agency responsible for licensing private degree-granting institutions. Twelve of these States said that they had unimplemented legal authority, often because the authority is new. For five States (Arkansas, Kentucky, Nevada, South Dakota and Tennessee), the authority only became effective as of July 1975. Almost without exception, the existence of licensing authority means that published materials of some kind have been developed or will be developed to implement the authority.

At least seven States which do not now have a licensing agency for private degree-granting institutions are in some stage of developing legislative initiatives in this area. These States are: Colorado, Louisiana, North Dakota, Puerto Rico

* hereinafter, for purposes of clarity and consistency, "State-level jurisdictions" will be referred to as "States."

South Carolina, Utah and Washington. In addition about a dozen States which already have an agency are considering further legislation. Three States neither have an agency nor are presently considering legislation. They are: Alabama, Idaho and Michigan.

B. Institutions Licensed

There are thirty-four States which reported that they now have licensed private degree-granting institutions. In twenty-one of these States the number of such institutions is less than 30. The highest numbers for any of the States are 160 in Pennsylvania and 158 in New York. Naturally, States which have not yet implemented their authority are among those with very few or no licensed institutions. For the nation as a whole over 1000 schools are now licensed.

Eighteen States reported that they exclude some number of private degree-granting institutions from their licensing authority. In a number of cases the exclusions were quite specific -- e.g., eleven institutions created by Federal charter in the District of Columbia, twelve "Non-public colleges and universities currently incorporated and operating..." in Arkansas, and seven degree-granting institutions operating before April 1, 1887, in New Jersey. (The wording of this question apparently resulted in some confusion, however, so that some States reported the numbers of public or non-degree-granting or other types of institutions which are excluded, rather than or in addition to private degree-granting institutions.)

It appears that there are ten States which do not exclude any private degree-granting institutions from the State licensing authority. These are: Alaska, Georgia, Kentucky, Maine, Maryland, New York, Ohio, Pennsylvania, Vermont, and West Virginia.

C. Information and Records

Twenty-three States reported that they now have a data base on their licensed institutions, though there is a great range in the amount and type of information collected. In West Virginia, for example, it is enrollment and degrees awarded. In Ohio, it is "only such information as is required in applying for a Certificate of Authorization." In Connecticut it is "program offerings, facilities, and facility utilization, plus all Higher Education General Information (HEGIS) information." An additional five States, mainly those just implementing their authority, indicate that they intend to develop data bases. Among those States which have licensing authority, there are seven which do not have a data base and indicate no intention of developing one. These States are: Delaware, Georgia, Kansas, New Mexico, North Carolina, Texas and Wyoming.

About twenty States indicated that they have or are developing some provision for preserving institutional and/or student records in the event of institutional closure. Some States which indicated they preserve student records did not say what provision, if any, was made for preserving the institution's financial and other records. At least sixteen States have clearly made no provision for preserving any records.

IV. Problems

A number of areas were cited by at least a few States as being important problems. Most frequently mentioned were:

(1) How to deal with out-of-State institutions which open branches or offer programs within the State, including those on military reservations.

(2) What standards to use in evaluating nontraditional institutions.

(3) What relationship should be maintained with private accrediting associations.

(4) How to implement licensing authority when staff and other resources are inadequate.

(5) How to obtain adequate legislation, e.g., with regard to consumer protection.

Table 1. Questionnaire Data by State

State	Has pdg* licensing agency	Has unimplemented legal authority	Has legislation planned or proposed	Has published materials	# pdg* instns. licensed	# pdg* instns. excluded	Has data base on licensed instns.	Preserves student & instnl. records
1. Alabama	No	No	No	No	N.A.	-	-	-
2. Alaska	Yes	No	No	Yes	2	0	Yes	No
3. Arizona	No	No	Poss.	No.	N.A.	N.A.	N.A.	N.A.
4. Arkansas	Yes	Yes(7/75)	No	Not yet	None so far	12	Not yet	Not yet
5. Calif.	Yes	No	No	Yes	24	350 pub. & priv. accredited	Yes	Being dev.
6. Colorado	No	-	Yes	-	-	-	No	No
7. Conn.	Yes	No	No	Yes	24	1	Yes	Yes
8. Delaware	Yes	No	No	Yes	4	3	No	No
9. Dist. of Columbia	Yes	No	Yes	Yes	21	11+	Yes	No
10. Florida	Yes	No	No	Yes	39	52	As of 7/75	Yes (students)
11. Georgia	Yes	No	No	Yes	28	0(?)	No	Yes
12. Hawaii	-	-	-	-	-	-	-	-
13. Idaho	No	No	No	Yes	2	Unk.	No	No
14. Illinois	Yes	No	No	Yes	100+	N.A.	Yes	Yes

* pdg = private degree-granting

State	Has pdg* licensing agency	Has unimplemented legal authority	Has legislation planned or proposed	Has published materials	# pdg* instns. licensed	# pdg* instns. excluded	Has data base on licensed instns.	Preserves student & instnl. records
15. Indiana	Yes	No	No	Yes	40	90	Yes	Yes
16. Iowa	-	-	-	-	-	-	-	-
17. Kansas	Yes	No	No	Yes	17	6	No	No
18. Kentucky	Yes	Yes(7/75)	Yes	Yes	None so far	0 pdg (?)	Not yet	Yes
19. Louisiana	No	No	poss.	No	12	N.A.	No	No
20. Maine	Yes	Yes	No	Yes	16	0	Yes	Yes
21. Maryland	Yes	No	No	Yes	21	0	Yes	Yes
22. Massachusetts	Yes	No	Yes	Yes	88	33	Yes	Yes (student)
23. Michigan	No	No	No	Yes	52 are recogn'd	1	Yes	Yes
24. Minnesota	Yes	Yes	Yes	Yes	None so far	-	-	-
25. Mississippi	-	-	-	-	-	-	-	-
26. Missouri	-	-	-	-	-	-	-	-
27. Montana	No	Yes	No	No	3	3	No	Yes
28. Nebraska	No	No	poss.	No	N.A.	-	No	No
29 Nevada	Yes	Yes(7/75)	No	Yes	1	?	Being Dev'd	Yes (student)
30. New Hampshire	Yes	No	No	Yes	18	?	Yes	Yes
31. N. J.	Yes	No	No	Yes	32	7	Yes	Yes

* pdg = private degree-granting

State	Has pdg* licensing agency	Has unimplemented legal authority	Has legislation planned or proposed	Has published materials	# pdg* instns. licensed	# pdg* instns. excluded	Has data base on licensed instns.	Preserves student & instnl. records
32. N. Mex.	Yes	Yes	Yes	Yes	37-40	50+	No	Not yet
33. N. Y.	Yes	No	No	Yes	156	0	Yes	Yes
34. N. Caro.	Yes	No	Yes	Yes	14	1	No	Yes
35. N. Dak.	No	No	Yes	No	No	-	-	-
36. Ohio	Yes	No	No	Yes	61	0 (non-profit)	Some	Yes
37. Okla.	Yes	No	No	Yes	16	?	Yes	No
38. Oregon	Yes	Yes	No	Yes	None so far	22	Yes	No
39. Penna.	Yes	Yes	Yes	Yes	160	0 pdg.?	Yes	No
40. P. R.	No	No	Yes	N.A.	10	non-h.e.	N.A.	N.A.
41. R.I.	Yes	No	Yes	Yes	3	?	Yes	Unknown
42. S. Caro.	No	No	Yes	No	2 prop.	almost all	No	No
43. S. Dak.	Yes	Yes (7/75)	Yes	In process	None so far	Very many	Not yet	No
44. Tenn.	Yes	Yes(7/75)	Poss.	Yes	?	?	Not yet	Yes
45. Texas	Yes	Yes(5/75)	No	(no poss. ?)	N.A.	?	No	N.A.
46 Utah	No	No	Yes	No	4	N.A.	No	N.A.
47. Vermont	Yes	No	Yes	Yes	19	0	Yes	No
48. Virginia	Yes	No	Poss.	Yes	30	40	Yes	No
49. Wash	No	No	Yes	No	12	?	Yes	?

* pdg = private degree-granting

State	Has pdg* licensing agency	Has unimplemented legal authority	Has legislation planned or proposed	Has published materials	# pdg* instns. licensed	# pdg* instns. excluded	Has data base on licensed instns.	Preserves student & instnl. records
49. W. Va.	Yes	No	poss.	Yes	20	0	Yes	No
50. Wisc.	-	-	-	-	-	-	-	-
51. Wyoming	Yes	No	No	Yes	0	?	No	No

* pdg = private degree-granting

QUESTIONNAIRE ON LICENSING POSTSECONDARY EDUCATIONAL INSTITUTIONS

Please complete this questionnaire and return it BY JUNE 15 to Ken Fischer at this address:

Questionnaire on State Licensing
Postsecondary Education Convening Authority
Institute for Educational Leadership
1001 Connecticut Avenue, N.W., Suite 310
Washington, D.C. 20036

Your completed questionnaire and those from the other states will be duplicated and compiled into notebooks and made available to each participant at the Working Conference for State Licensing Officials to be held at the Airlie Conference Center in Warrenton, Virginia on July 10 - 12.

In addition, there will be a "Conference Information Center" where copies of state laws, rules and regulations, checklists, visitation manuals, application forms, and other materials will be available in multiple copies. Please bring with you 50 copies of any documents from your agency which you could share with your conference colleagues at the information center.

Section I: Basic Demographic Information

1. State _____

2. Does your state now have a licensing agency for private degree-granting institutions? _____. If so, what is the name of the agency? _____.

   Principal Official: _____

   Title: _____

   Address: _____

   Telephone: ( ) _____

Section II: Legal Authority for Licensure

1. What is the specific legal authority for licensing private degree-granting institutions in your state?

2. What agency has the responsibility for Veterans approval in your state?

   Name of agency: _____

   Principal official: _____

   Title: _____

   Address: _____

   Telephone: ( ) _____

3. What agency licenses vocational and technical schools?

   Name of agency: _____

   Principal official: _____

   Title: _____

   Address: _____

   Telephone: ( ) _____

4. What agency has licensing authority for proprietary institutions?

   Name of agency: _____

   Principal official: _____

   Title: _____

   Address: _____

   Telephone: ( ) _____

5. Does your state have a 1202 Commission?

   Name of agency: _____

   Principal official: _____

   Title: _____

   Address: _____

   Telephone: ( ) _____

6. Do you have legal authority not yet implemented?

7. Are you planning on proposing legislation relating to the licensing of private, degree-granting institutions?

Section III: Administration and Organization of Licensing Agencies

1. Do you have published guides, standards, rules and regulations, application forms, etc. relevant to licensing? If so, please list. (Please bring 50 copies of such items for the conference information center).

Section IV: Private Degree-granting Institutions Currently Licensed

1. How many private degree-granting institutions are licensed in your state?

2. What types of institutions are excluded from your regulation?

   How many?

3. Do you have a data base for all licensed institutions?

   What kind of information is collected?

4. What provisions exist for preserving institutional and student records?

5. What mechanism for coordination do you have with other educational licensing agencies in your state?

   Are these instances of dual licensing?

6. Do you maintain any formal or informal working relationships with voluntary accrediting agencies?

   Please describe.

Section V: Problems

1. Please identify any problem areas regarding the licensing of private, degree-granting institutions for postsecondary education in your state.

FINAL AGENDA

Working Conference for State Licensing Officials
July 10-12
Airlie Conference Center
Warrenton, Va.

Thursday, July 10

1:00 - 6:00 p.m. - Registration - Main Lobby & Board Rm.

5:00 - 6:00 p.m. - Cash Bar - Garden

6:00 - 7:00 p.m. - Dinner - Dining Room

7:30 - 9:00 p.m. - First session (Introductions, explanation of agenda, other details) Moderator, Ken Fischer, Institute for Educational Leadership - Studio

Friday, July 11

7:30 - 8:30 a.m. - Breakfast -- topic tables * - Dining Room

9:00 - 12:00 noon - Seminar I: Legal Authority for Licensure
Moderator, Jim Rogers, Kentucky - Studio
Discussion of the legal basis of licensure in the states

1. What are the activities specifically described in the legal authority, statute or regulation, for licensing in your state?

2. What are the enforcement procedures, including the renewal or amendment of licensure, investigation of complaints, and legal remedies utilized by your agency?

3. Do other laws, such as public records, open meetings, or certain federal statutes affect your licensing agency?

4. What procedures exist in your state for the establishment of domestic or foreign educational institutions?

12:15 - 1:45 p.m. - Lunch - Harold Orlans, Principal Author Private Accreditation and Public Eligibility - Meadow Room

2:00 - 5:00 p.m. - Seminar II: Administration and Organization of Licensing Agencies, Moderator, Wayne Freeberg, Florida - Studio

Discussion of common problems relating to the administration of state licensing programs.

1. What is the organizational locus of the licensing agency (e.g. independent board, state board of education, state board of higher education agency, etc.) in your state? Composition? Appointment process?

(more)

2. What staff is available to assist the licensing authority and who determines the necessary staff level?

3. What are the internal management procedures your agency utilizes in licensing, such as initial and renewal applications, on-site visits, interim reports, administrative guidelines, etc.?

4. What vehicles for intrastate communication are available in your state?

5. What type of orientation does your agency provide staff, board members, and evaluation teams upon appointment?

5:00 - 6:00 p.m. - Free

6:00 - 7:00 p.m. - Meeting with John Phillips, Deputy Commissioner for Postsecondary Education (USOE) - Lodge

7:00 - 8:00 p.m. - Dinner - barbeque - Lodge
Music by Goliard Brass Ensemble

8:00 - 10:00 p.m. - Special sessions suggested by participants * * - rooms to be announced

Saturday, July 12

7:30 - 8:30 a.m. - Breakfast -- topic tables * - Dining Room

9:00 - 11:30 a.m. - Seminar III: Nontraditional Institutions, Moderator, Arlene McCown, District of Columbia - Studio
Discussion of the impact of nontraditional institutions on licensing policies and procedures.

1. What criteria are employed in the evaluation of non-traditional institutions?

2. If provisions for evaluation of out-of-state institutions operating within your state exist, what procedures are utilized?

3. How do you evaluate institutions offering multidisciplinary programs? Single-purpose institutions?

4. Who selects evaluation teams and on what basis?

11:30 - 12:00 p.m. - Check out

12:15 - 1:30 p.m. - Lunch -- Presentation of Conference Report - Meadow Room
Theodore Marchese, Conference Synthesizer
We will be joined at lunch by a number of federal officials and representatives of private associations and agencies interested in our conference

1:30 p.m. - Adjournment

(more)

* Topic Tables: NEXUS -- Postsecondary Education's "People Bank" -- will be at the Conference to connect people who need information with people who can provide it. During registration each registrant will fill out a card to indicate the topics in which he has interest and/or experience. Tables will be set up at meal time so that people can get together for discussion on these specific topics. Topic tables not prearranged can be set up within an hour of meal time. Marv Farbstein of Maryland is developing a set of case studies for use at the topic tables.

* * Special Sessions: We know that the agenda can't cover everything you want to learn or discuss. In order to be as responsive to as many people as possible, Friday night's session will be determined by your responses to the agenda. Many of you returned the yellow sheet listing topics you want to discuss that you didn't see on the agenda. NEXUS is compiling these, and we'll announce the groups and meeting places on Friday. New sessions can be created on-site, too, just by contacting NEXUS.

LIST OF ISSUES IN STATE LICENSING

The issues which face State officials who license private degree-granting institutions are many and varied. Here are some of them, contributed as conferees "went around the table" on the opening night of the conference.

- staffing and resources
- interstate communication
- evaluation of nontraditional programs and institutions
- lack of legislative authority
- proliferation of programs by accredited institutions
- evaluation of life experience
- relation to accrediting agencies, particularly to the regionals
- need for skill in developing legislative packages
- evaluation criteria
- institutions on military bases, particulary when they recruit off-base
- moderating competition between public and private institutions
- monitoring mechanisms
- definition of degree
- degree requirements
- development of rules and regulations for new legislation
- legislation with too many exemptions
- desire to strengthen existing private institutions
- problem of overregulation
- how to deal with "hit and run" institutions
- need for minimum standards in legislation rather than rules and regulations
- utilizing "need" as a criteria for approval
- potential conflict between State-wide coordinating/planning efforts and interstate education
- dual licensing
- should State specify a general education component; should it be transferrable
- development of standards for degree levels
- definition of "college" & "university"
- evaluation of external degree programs
- compostion of boards & commissions
- processing student complaints
- library requirements
- relationship of State scholarship funds to out-of-state programs in-state
- compostion of evaluation teams and method of appointment

LIST OF PUBLICATIONS AND STATE DOCUMENTS DISTRIBUTED AT THE CONFERENCE

I. General Information Materials

Arnstein, George., "Accreditation, State Licensing, and Approvals: Why the System Isn't Working," reprint from the February, 1975, Phi Delta Kappan

Arnstein, George E., "Ph.D., Anyone?," July 1974/August-September 1974, Volume 10, No. 6 & 7, American Education

Education Commission of the States, "Consumer Protection in Postsecondary Education," Report of the Second National Conference, November 14-15, Knoxville, Tennessee, March 1975, Report #64

Education Commission of the States, Higher Education in the States, May-June 1972, Vol. 3, #4 pp. 65-120

Ibid., September 1972, Vol. 3., #7, pp. 177-196

Ibid., 1974, Vol. 4., #6, pp.173-184

Ibid., 1975, Vol. 4., #10, pp. 297-352

Education Commission of the States, Model State Legislation, Report of the Task Force on Model State Legislation for Approval of Postsecondary Educational Institutions and Authorization to Grant Degrees, Report #39, June 1973.

Institute for Educational Leadership, "Government Funding Policies and Nontraditional Programs," L. Richard Meeth, June 1975

National Advisory Council on Education Professions Development, "Gatekeepers in Education: A Report on Institutional Licensing," April 1975

National Advisory Council on Education Professions Development, "Staffing the Learning Society: Recommendations for Federal Legislation," April 1975

II. State Materials

COLORADO

"An Act - Concerning the Regulation of Private Vocational Schools," Senate Bill No.384, Article 59, 1975

"Diploma Mill Law," Article 2, Colorado Revised Statutes, 1973

CONNECTICUT

"Policies & Procedures for Licensing and Accrediting Institutions of Higher Learning in Connecticut," approved by the Commission for Higher Education July 9, 1974

DELAWARE

"Policies, Standards and Procedures for Approving Degree Granting Institutions of Higher Education," Department of Public Instruction, State of Delaware June 14, 1972

"Private Business and Trade Schools in Delaware," Delaware Code, Title 14, Ch. 85 and "Rules and Regulations of the Delaware State Board of Education," Original Printing - January 18, 1973

DISTRICT OF COLUMBIA

"Colleges & Universities Licensed to Confer Degrees by the District of Columbia Board of Higher Education," Data Summary

"Institutions Licensed by the Board of Higher Education to Confer Degrees in the District of Columbia," Type of Licensing, Duration of Licensing, June 1975

"Instructions to Members of Licensure Evaluating Teams," February 1975

"Institutional Fact Sheet," District of Columbia Board of Higher Education Committee on Licensure

"Policies and Procedures Relating to the Licensing of Institutions which Confer Degrees," The Board of Higher Education of the District of Columbia, December 11, 1968

"Title 29 - Corporation," excerpt from D. C. Code Title 29, re: Licensure

FLORIDA

"Florida Statutes, Chapter 246," and Forms SIBCU 101,102,103

"Nonpublic Educational and Training Institutions," Chapter 246, pp. 212-219

"Report of the State Board of Independent Colleges and Universities," July 1, 1974 - June 30, 1975

"Rules and Regulations of Florida," State Board of Independent Colleges and Universities, Chapter 6E, 1974-75

INDIANA

"Application for Formal Accreditation," Indiana Private School Accrediting Commission - Sample Form

"Rules and Regulations of the Indiana Private School Accrediting Commission," Indiana Private School Accrediting Commission

"Visiting Team Evaluation & Procedural Criteria" Indiana Private School Accrediting Commission

KENTUCKY

"Licensing of Nonpublic Colleges," definitions for RKS 164.945 to 164.947

"Regulations for Licensing Non Public Colleges," Council on Public Higher Education, July 9, 1975

MARYLAND

"Maryland Standards for Four-Year Colleges and Universities," Maryland School Bulletin, Volume XLV, September 1969, #3, Maryland State Department of Education

"Policy Statement," re: awarding of degrees by institutions of higher education in the State of Maryland

"Procedures for Accreditation of Four-year, Colleges, and Universities, and Specialized Graduate Degree Programs," Maryland State Department of Education, August 1, 1973

"Questionnaire for Colleges Requesting State Accreditation and/or Authority to Grant Degree(s)" - Sample Form

"Questionnaire Guide to Self-Evaluation of Proposed New Master's Degree Programs" - Sample Form

"Use of the word 'College' or 'University'," Maryland State Department of Education

MASSACHUSETTS

Article on "Degree Mills," re: consumer protection information for the public Boston Herald-American, December 11, 1974.

"Authority to Confer Honorary Degrees," February 1974

"General Laws and Procedures Relating to Collegiate Authority," Commonwealth of Massachusetts, Board of Higher Education, December 1974.

"Independent Institutions Under Purview of Massachusetts Board of Higher Education," July 1975

Massachusetts Board of Higher Education inventory of out-of-state institutions operating academic programs within Massachusetts, May 1974

Massachusetts Board of Higher Education Policy Covering Out-of-State Degrees, January 1975

Massachusetts Board of Higher Education, Policy for Public Institutions Requesting Changes in Degree Nomenclature, February 1975

Massachusetts Board of Higher Education Guidelines for the Review and Evaluation of Proposed Graduate Programs at Public Sector Institutions, May 1975

Massachusetts Board of Higher Education Advisory Committee Structure and Guidelines, September 1974.

Massachusetts Board of Higher Education,"Calendar for the Submission of Program Requests for 1976 and January 1977 Program Implementation" February 1975

Massachusetts Board of Higher Education "Assessment Criteria for Evaluation of Proposals for New Programs (Cost Benefit Analysis)," March 1974

Petition forms for "Foreign Corporation Certificate" and "Amended Foreign Corporation Certificate," to be filed with the Secretary of State.

"Petition forms to be filed with Secretary of State for profit and non-profit Massachusetts organizations seeking degree authority"

"Policy and Guidelines for the Certificate of Advanced Graduate Study," (CAGS), February 1975

Policy Concerning "Junior College Name Change," December 1974

"Procedures for Approval of Proposed New Programs in Public Postsecondary Institutions," includes proposal formats, July 1974

"Retroactive Degree Awarding," December 1974

" Suggested Outline for the Sbumission of Proposed Educational Programs for Non-public Institutions in the Commonwealth of Massachusetts," October 1974

MICHIGAN

"Educational Corporations," extracts from Corporation Code, Act 327, P.A. 1931 as amended, being Sections 450.170 - 450.177, Compiled Laws 1948, being Sections 21.171 - 21.178 of Michigan Statutes Annotated

"Private Trade Schools," Act 148, 1943, p. 188; Imd. Eff. April 14

"State Board of Education - Minimum Requirements for Nonincorporated, Privately Operated Institutions," Act 142, 1964 as amended by P.A. 167, May 8, 1969

NEVADA

Assembly Bill No.24 - Committee on Education, Re: provision for regulation of all proprietary, elementary, secondary, and postsecondary institutions, January, 22, 1975

"Private Correspondence, Business and Trade Schools, Regulations for Licensing," Private Correspondence, Business and Trade Schools, 1974

NEW YORK

"Law Pamphlet 9 - Incorporation of Educational Institutions by the Regents," The University of the State of New York, The State Education Department Office of Counsel, Albany, 1971

NEW MEXICO

"Advisory Committee for Private Proprietary Schools & Colleges," Board of Educational Finance - Commission of Postsecondary Education

"Application for Agent's Permit," Board of Educational Finance Commission on Postsecondary Education - Sample Form

"Application for a Permit or Certificate of Approval to Operate a Private Proprietary School or College," Board of Educational Finance, Commission on Postsecondary Education - Sample Form

"Application for a Permit or Certificate of Approval to Operate an Out-of-State Private Proprietary School or College" - Sample Form

"Director of New Mexico Private Proprietary Schools for FY 1975"

"Postsecondary Educational Institution Act, Article 40"

"Out-of-State Proprietary School Act, Article 41"

"Private Proprietary Schools and Colleges Codes"

"Proprietary School Surety Bond"

"Rating Form for Visiting Team Members" - Sample Form

"Regulations for Non-State Resident Correspondence Schools and Other Private Proprietary Non-State Resident Schools and Colleges"

"Regulations for the Issuance of Certificates of Permit and Approval to Private Proprietary Schools and Colleges in New Mexico"

"Standards and Guidelines for Certifying Private Proprietary Schools & Colleges"

"Statement of Fiscal Responsibility"

NORTH DAKOTA

"Application for Correspondence School Solicitor's Permit to Represent...," State Board of Vocational Education, - Sample Form

"Application for Approval for License to Conduct a Trade or Correspondence School," State Board for Vocational Education - Sample Form

"Certificate of Moral Character," Private Vocational Schools, State Board for Vocational Education - Sample Form

"General Information on Teaching Staff," State Board for Vocational Education - Sample Form

"Know All Men by these Presents..." - Sample Form

"Private Trade & Correspondence Schools Information Report " - Sample Form

"Rules & Regulations," re: Licensing of Trade, Correspondence schools In-State and Out-of-State

"Trade & Correspondence Schools," State Board of Vocational Education

OHIO

"Educational Corporations," Chapter 1713, Sections 1713.01-1713.04 and Sections 1713.06, 1713.09, and 1713.25

"Standards for Issuance of Certificates of Authorization Under Section 1713.03, (Ohio Revised Code), Ohio Board of Regents

OREGON

"Definition of An Educational Program"

"Changes in Oregon Revised Statutes," State of Oregon - Senate Bill 829

"Oregon Revised Statutes" (from SB 829: effective July 1, 1975) ORS 351.270 "Program Review"

PENNSYLVANIA

"An Act," No.224, SB.30 (provisions for membership in the State Brd. of Education)

"Activity of Foreign Educational Corporations (Non-Pennsylvania Institutions of Higher Education)

"Application for Agent's License - Private Trade Schools" - Sample Form

"Application for Approval as a College or Seminary" - Sample Form

"Application for Approval of Graduate Programs" - Sample Form

"Application for Approval as a Junior College" - Sample Form

"Application for Approval as a Junior College by a New Organization" - Sample Form

"Application for Approval as a Junior College by an Existing Institution"- Sample Form

"Application for Approval to Grant an Associate Degree by an Existing Degree-Granting College or University" - Sample Form

"Application for License to Conduct a Private Business School or Class" - Sample Form

"Application for License to Conduct a Private Correspondence School" - Sample Form

"Application for License to Conduct a Private Trade School" - Sample Form

"College & University Standards," (Act of May 7, 1937, P.L. 585, as amended), Commonwealth of Pennsylvania, Department of Education

Correspondence between: Dr. F. Thomas Trotter & Warren B. Evans, September 16, 1971 & October 18, 1971, Dr. Bevington Reed & Frederic K. Miller, October 12, 1971

Correspondence between: Honorable John C. Pittenger, Secretary of Education and Lillian B. Gaskin, Deputy Attorney General

"Course Outline" - Sample Form

"Current Financial Statement" - Sample Form

"Degree Granting in the Commonwealth of Pennsylvania," April 6, 1972

"Enrollment Agreement" - Sample Contract

"Establishment of a College, University or Seminary in the Commonwealth of Pennsylvania"

"Excerpts from the Nonprofit Corporation Law," Articles II, III, VII, VIII, & IX (Act of May 5, 1933, P.L. 289, as amended)

"Fact Sheet - Summary of College Visitation Reports" - Sample Form

"Instructions for Making Application for Licensure as a Private Correspondence School," Commonwealth of Pennsylvania, Department of Education, State Board of Private Correspondence Schools

"Materials related to the Approval of Programs of Postsecondary Institutions Requesting a Certificate of Approval to Award the Associate in Specialized Business and/or the Associate in Specialized Technology Degree," Division of Two-Year Programs, Bureau of Academic Programs, Pennsylvania Department of Education, 1974

"Memorandum To Sub-Committee 'c' 'Charters of Colleges in Pennsylvania," Warren D. Evans

"Nonprofit Corporation Law - Degrees - Diplomas - Sections 211 and 312 of the Nonprofit Corporation Law," Office of the Attorney General, Official Opinion #80

"Private Business School Act," Commonwealth of Pennsylvania, Department of Education, Bureau of Private Schools and Veterans Education, State Board of Private Business Schools

"Private Business School Contract Bond" - Sample Form

"Private Correspondence School Contract Bond" - Sample Form

"Private Trade School Contract Bond" - Sample Form

"Qualifications for Approval of Administrative and Instructional Staff, Private Business School" - Sample Form

"Qualifications for Approval of Administrative and Instructional Staff, Private Trade Schools" - Sample Form

"Recommended Procedure for Approval of Degree-Granting Institutions Involving Original Charter or Charter Amendment," Commonwealth of Pennsylvania, Department of Education, Bureau of Academic Programs

"Request for Approval of Class Schedule" - Sample Form

"Requirements of Educational Institutions Desiring to Confer Degrees," Section 7312, Chapter 21, Corporate Powers, Duties, Pg. 295

"Rules and Regulations Governing Private Business Schools and Agents," Pennsylvania Department of Education, 1975

"Rules and Regulations of the State Board of Private Correspondence Schools," Bureau of Private Schools and Veterans Education, Pennsylvania Department of Education, 1972

"Rules, Regulations and Standards of Instruction Governing Private Trade Schools, Classes, and Agents," The State Board of Private Trade Schools

"Rules & Regulations," Pennsylvania Code Section 51.1 excerpts from

"State Board of Private Business Schools - Instructions for making application for license to conduct a Private Business School," Commonwealth of Pennsylvania Department of Education

"State Board Powers & Duties, State Government - Program and Procedure," Section 369, State Government, pp. 67

"State-Owned Institution Application for Approval as a University" - Sample Form

"Title 22 - Education," excerpts from

RHODE ISLAND

"An Act - Relating to Private Schools," State of Rhode Island and Providence Plantations, January Session, 1975

"Chapter 40 - Private Schools," pp. 224-230

"Procedures for Applying for Approval of an Application for a Charter for an Institution of Higher Education"

"Standards for Approval of Institutions of Higher Education"

SOUTH CAROLINA

"Current South Carolina Laws Pertaining to Proprietary Schools," June 2, 1975

SOUTH DAKOTA

"Application for Institution License," Department of Education and Cultural Affairs Office of the Secretary, Postsecondary Regulatory Agency - Sample Form

"Application for Teacher's Approval," South Dakota Department of Education and Cultural Affairs, Office of the Secretary - Sample Form

"Regulation of Postsecondary Institutions," Chapter 24:40:04, 2nd Draft June 10, 1975

"Solicitor's Application," State of South Dakota, Department of Education and Cultural Affairs - Sample Form

"Solicitation of Students by Private Schools," Chapter 13-48

TEXAS

"An Act - Relating to Licensing of Institutions of Higher Education," enrolled H.B. #1538

VIRGINIA

"Chapter 340 -An Act to amend and reenact 23-9.10, as amended, of the Code of Virginia, and to amend the Code of Virginia by adding a section numbered 23-8.2 relating to the duties of the State Council of Higher Education coordinating off-campus and extension programs," The General Assembly of Virginia

"Code of Virginia," Volume 5, Title 23, Chapter 1.1, State Council of Higher Education for Virginia, and Volume 5, Title 23, Chapter 1, "Conferring College Degrees," 1974

"State Council of Higher Education for Virginia Procedures for Applying for State Approval to Grant Graduate Degrees," the State Council of Higher Education, eff. July 1, 1968

INSTITUTE FOR
EDUCATIONAL
LEADERSHIP

THE
GEORGE
WASHINGTON
UNIVERSITY

Suite 310
1001 Connecticut Avenue, N.W.
Washington, D.C. 20036

Samuel Halperin
Director
(202) 833-1737

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Notes of the Conference "Synthesizer"

Working Conference for State Licensing Officials
July 10-12, 1975
Airlie Conference Center
Warrenton, Virginia

sponsored by
Postsecondary Education Convening Authority
Institute for Educational Leadership

(Note: This paper transcribes notes of the conference synthesizer, summarizing conference issues for conference participants. Some points will not be self-evident to readers not present; extemporaneous comments and spoken examples are not included. A more complete conference report will be prepared shortly.)

You might have had Harold Orlans for this assignment, at least in the sense of his background as an anthropologist. An anthropologist would have skills highly appropriate to this assignment (though more than 60 minutes to prepare a paper). With a general body of theoretical knowledge -- in this case, of the larger culture of postsecondary education -- one enters amongst strange tribepersons in an attempt to record, to understand, then to relate to larger situations the strange rites observed -- in this case, those of chartering, licensing, approving, accrediting, and certifying a set of institutions. I'm here not as one of you, or as an alter ego or as your spokesperson, but as a stranger, now friend, charged with critical reflection on what has been observed. I have, at this point, 14 observations to share today.

1. The most significant thing about this meeting is the fact of its occurrence. It came as a surprise to me that people with tasks so much in common, of such critical importance, so interstate in character, would never have come together before this, that not only had they not met but that they in most cases did not communicate or even know one another. I understand the reasons for this, but it is a surprise nonetheless. How, I ask myself, could so much national discussion of a "tripartite" system have gone forward during the past year, with one of the major parties not existing as an entity?

2. A second observation: that state licensing of degree-granting postsecondary institutions -- at least in the sense of minimum standards and a measure of consumer protection -- is a relatively new function in many jurisdictions, one not yet, however, a majority practice among the states. (You are probably where motor vehicle driver licensing was in 1906.) Reviewing ECS surveys and information shared here, most states with effective licensing operations seem to have relatively new shops enforcing recent legislation. Even today, however, perhaps only 15-20 states have such operations. But the situation is changing rapidly: half a dozen states here have new legislation (and several more will have) and will soon have regulatory mechanisms in place.

3. Given the situations of new activity and lack of communication about it, there has been manifest here a tremendous, bottled-up need to talk shop, trade paper, share horror stories. Focus of this meeting has overwhelmingly and understandably been on the practical, rather than on the theory of what you may be doing or its larger contexts. This isn't to say you are unaware of the latter, only that one gets the impression of people hard-pressed by urgent tasks in need of one another to meet those tasks.

4. Hard-pressed as you are, you have so few resources for the accomplishment of your mandates. A great many of you are not full-time on the job of licensing; you have little or no staff; a puny budget; you suffer the indifference of other agencies whose help is needed; have feeble or nonexistent monitoring and enforcement mechanisms; and little research or technical assistance. Considering these constraints, the wonder is that so much appears to be done.

5. A next impression is one of tremendous variety of practice among the states. Your legislative mandates, the theory behind them, form of board control, organizational locus, staffing, procedures, and outcomes vary widely. This is not a situation necessarily to bemoan; what you have are a number of models of effective practice, and as these and the experience of them come to be shared you have valuable lessons for practice. Some of the national writing on the subject of licensing decries the "lack of uniformity" among the states -- a true problem in the sense that some states regulate, others fail to -- but a growing number do regulate and the diversity of approach taken so far has aspects of a strength.

6. Contrary to the myth of ineffectiveness, of being a weak sister, there have been many examples here of vigorous and imaginative state action to the protection of postsecondary consumers and improvement of postsecondary practice. Why, then, beyond the usual failure of generalization, does the myth persist? In part because...

7. You are invisible, especially at the national level. The ignorance of your work, in national studies and agencies, is devastating, especially when contrasted with the sweep of plans for your reform. What you don't know about is all too easy to write off.

8. I have the impression, related to the above, that your linkages with federal and regional-specialized accreditation offices are weak. They don't know you, or you them, in too many cases; plenty of room for confusion, sloppy practice exists, as numerous given examples document. The concern is not just over opportunities for fraud to flourish. The entire field of institutional approval is up for grabs, you get caught in the middle, often after the fact, in situations not of your own making. Charges are made of you for failure to fulfill someone else's agenda (perhaps unknown to you), even as you struggle to carry out the statutory public policy of your state.

9. Which leads to another problem you apparently have: the state legislative and public-opinion back-up to do the effective job you want to do often just isn't there. You haven't the legal authority to address many obvious instances of fraud, nor the larger sense within the state that these frauds are significant and must be dealt with by state action. In some ways, many of the proposals now being made out-run public opinion on the subject -- abuses not as clearly seen as polluting a river or short-weighting meat.

10. This conference has generated a tremendous amount of valuable new information: the Shapiro report on our questionnaires, the mountain of assembled documents, 26 pages of handwritten record of proceedings, to the great improvement of at least our understanding of state licensure as it exists today. A way should be found to reduce and communicate this information more widely, to improve your ability to function and to make better known that function at the national level and within the states.

11. We heard suggested yesterday, from a federal official, that there be a two-year study, federally funded, of what the states are doing. I wonder at the need for this. As we've seen, this is a field changing so rapidly that data gathered now for release sometime in 1977-78 may be useless. But a variety of decisions re "approval" need to be taken soon at federal/state levels, well before availability of another 800-page report. Couldn't information-gathering and analysis steps begun at this conference be extended? One person, taking up from where we leave off, working 4-6 months, could gather 95% of what anybody would need soon and for a fifth of the cost of the proposed study.

12. I don't know what the federal need is now -- a study of you, it is said -- but you need to articulate what your needs are in the situation. Right now, I've heard you say you need

- -- continual, up-to-date information on developments in the field of licensing;
- -- a simple, central data bank carrying names of institutions and people state action taken against;
- -- way of communicating regularly among yourselves;
- -- assistance on the legal bases of what you're doing;
- -- assistance in developing, updating rules, regulations, procedures, evaluative criteria; and
- -- way of making your voice heard in national decision-making councils.

Half the sum proposed for the study, if available now for your needs, could accomplish more to advance effective consumer protection than any study. Alternatively, if there be a study, let it be not so much of you and summative as with or by you and formative of better practice.

13. Earlier I observed your need now to deal with matters of practice; there remain larger questions of policy which ultimately will come before you, or have already -- the non-traditional study movement, to take an example discussed this morning, makes one re-think a host of questions, including what can be specified by way of "minimum standards." Other examples:

-- there is Orlans' idea of state roles (as I understand it); eligibility and quality questions fall to others, the state serving the police roles of assuring "honest practice." Whether eligibility-quality should be left to others, honest practice may be a good conceptual way out of minimum-standards difficulties...
-- new demands to make better information available to consumers for better choice among postsecondary options. Note National Project 1 of the Fund for the Improvement of Postsecondary Education...
-- new issues in state-wide planning for higher education. If "needed service" criterion not applied to privates and all out-of-states, grave threat arises to state investment in comprehensive public system, and a reaction must be expected.
-- as educators, we are accustomed to think of distinct spheres in postsecondary education: public, private, degree and non-degree, and have accordingly erected distinct regulatory mechanisms. But, a consumer approach would notice that all sectors are now behaving similarly in a postsecondary marketplace and demand, in name of even-handed treatment, equal regulation and protection mechanisms. Is your particular role, then, anomalous? Might it expand?
-- similarly, consumer people will soon call into question the "cozy" arrangement whereby decisions of who may or may not start a program in your state are made by boards dominated by the existing, established institutions. It's a conflict-of-interest question; the public interest, they will argue, should be dominant in marketplace regulation. College people may be (I believe are) best at "quality" judgments; but an "honest practice" approach might demand a different locus of control.
-- then there are the issues raised at Knoxville and in federal papers, the need for a coordinated national policy in this area. Given the documented extent of continuing fraud, the absence of half the states from the arena, and the billions in public monies involved, a prima facie case for federal initiative exists. A likely development: federal rules compelling states to perform a designated minimum role, with money as a sweetener; the question is what input you'll have in defining that role.

14. I would conclude with the observation that, given the critical, interdependent nature of your work, the inadequacy of single-state resources to meet needs for change, plus the policy agendas upon you, there is a need for the people in this room to organize in some way, to advance collectively the important function you perform.

Theodore J. Marchese
Director of Institutional Research
Barat College
Lake Forest, Ill. 60045

July 12, 1975

The State Approval/Licensing Structures for Private Postsecondary Education

prepared by
Arlene McCown
District of Columbia Board of Higher Education

State	Approval/licensing of Private, degree-granting Institutions	Approval of Vocational/Technical Schools	Approval of Proprietary Schools (Non degree-granting)	Veterans Approval	Planning Commission 1202-3
Alabama	None	State Dept. of Ed.	State Dept. of Ed.	State Approving Agency	Ala. P.S. 1202 Commission
Alaska	Dept. of Ed.	Dept. of Ed.	Dept. of Ed.	Dept. of Ed.	Commission on PSE
Arkansas	State Dept. of H.E.	State Dept. of Ed.	Dept. of Higher Ed.	State Dept. of Ed	Dept. of H.E.
Arizona	None	State Board of Private Technical Business Schools	State Board of Private Technical Business Schools	Dept. of Economic Society	Commission for PSE
California	State Dept. of Ed. Bureau of School Approvals	State Dept. of Ed. Bureau of School Approvals	Bureau of School Approvals	Bureau of School Approvals	California PSE Commission
Colorado	State Dept. of Ed.	State Dept. of Ed.	St. Bd. for Community Colleges & Occupational Ed.	Bd. for Community Colleges & Occupational Ed.	Commission on Higher Ed.
Connecticut	Commission for H.E.	Commission for Higher Ed.	Commission for Higher Ed.	V.A. Regional Of.	Commission for Higher Ed.
Delaware	State Dept. of Public Instruction	Dept. of Public Instruction	State Bd. of Education through Dept. of Public Instruction	Dept. of Public Instruction	Delaware PSE Commission
District of Columbia	Bd. of Higher Education	Dept. of Economic Development	Dept. of Economic Development (non-degree)	Bd. of Education	Commission on PSE
Florida	Bd. of Independent Colleges & Universities Dept. of Ed.	Bd. of Postsecondary, Voc., Tech. & Trade Schools, Dept. of Ed.	Bd. of Postsecondary, Voc. & Tech. Schools (non-degree) BICU (degree	Dept. of Community Affairs & Dept. of Ed.	State Planning Council for Post-high School Ed. 1202
Georgia	Dept. of Ed.	Dept. of Ed.	Proprietary Schools Standards Section Dept. of Ed.	Dept. of Veterans Service	PSE Commission
Hawaii	State Dept. of Regulatory Agencies		Dept. of Ed.	Dept. of Ed.	Bd. of Regents Univ. of Hawaii

State	Approval/licensing of Private, degree-granting Institutions	Approval of Vocational/Technical Schools	Approval of Proprietary Schools (non degree-granting)	Veterans Approval	Planning Commission 1202-3
Idaho	None	State Dept. of Ed.	State Dept. of Ed.	State Dept. of Ed	None
Illinois	Office of Education	Office of Education	Office of Education	Veterans Commission	Bd. of Higher Education
Indiana	Private School Accrediting Commission	Private School Accrediting Com.	Private School Accrediting Com.	Private School Accrediting Com.	Commission for Higher Ed.
Iowa	None		State Dept. of Public Instruction	State Dept.	None
Kansas	State Dept. of Ed.	State Dept. of Ed.	State Dept. of Ed.	Veterans Commission	State Dept. of Ed.
Kentucky	Council on Public Higher Education	Dept. of Ed.	Dept. of Ed.	Dept. of Ed.	1202 Commission
Louisiana	None	State Dept. of Ed.	State Dept. of Ed.	State Dept. of Ed	Board of Regents
Maryland	State Dept. of Ed.	State Dept. of Ed.	State Dept. of Ed.	State Dept of Ed.	Council for Higher Ed.
Massachusetts	Bd. of Higher Ed.	Bd. of Ed.	Bd. of Ed.	Bd. of Higher Ed.	Postsecondary Education Commission
Maine	State Dept. of Educational Cultural Services	State Dept. of Ed.	State Dept. of Ed.	State Board of Ed. & Cultural Services	Postsecondary Education Commission
Michigan	None	State Dept. of Ed. Supt. of Pub. Inst.	State Dept. of Ed. Supt. of Pub. Inst.	State Dept. of Ed Supt of Pub. Inst	State Bd. of Ed; Supt of Public Inst.
Minnesota	Higher Education Coordinating Committee	State Dept. of Ed.	State Dept. of Ed.	State Dept. of Ed	Higher Ed. Coordinating Committee

State	Approval/licensing of Private, degree-granting Institutions	Approval of Vocational/Technical Schools	Approval of Proprietary Schools (Non degree-granting)	Veterans Approval	Planning Commission 1202-3
Mississippi	Bd. of Trustees of Institutions of Higher Learning		State Dept. of Ed.	State Veterans Affairs Bd.	
Missouri			State Dept. of Ed.	State Dept. of Ed	Dept of Higher Ed.
Montana	Bd. of Regents for Higher Ed.		Supt. of Public Instruction	Supt. of Public Instruction	Bd. of Regents of Higher Ed.
Nebraska	None	None	None	Dept. of Ed.	Coordinating Council for Postsecondary Ed.
Nevada	Commission on Post-secondary Educational Authorization	Commission on PSE Authorization	Commission on PSE Authorization	Commission on PSE Authorization	1202 Commission
New Hampshire	Postsecondary Education Commission	Dept. of Ed.	Dept. of Ed.	Dept. of Ed.	Postsecondary Education Commission
New Jersey	Bd. of Higher Ed./Dept. of Higher Education	Dept. of Ed.	Dept. of Ed.	Dept. of Higher Ed.	Board of Higher Ed.
New Mexico	Bd. of Educational Finance	State Dept. of Ed.	State Dept. of Ed.	State Dept. of Ed	Commission on Postsecondary Ed.
New York	Board of Regents of SUNY State Dept. of Ed.	Division of Special Occupational Services	Division of Special Occupational services or Bureau of two-yr. Schools (degree)	Bureau of Veterans Ed/State Dept. of Ed.	Board of Regents
North Carolina	Bd. of Govenors of UNC	State Bd. of Ed.	State Bd. of Ed.	State Bd. of Ed.	None
North Dakota	None	Dept. of Vocational Ed.	Dept. of Vocational Ed.	Bd. of Higher Ed.	Higher Ed. Facilities Commission
Oklahoma	State Regents for Higher Education	Dept. of Vocational & Technical Ed.	Board of Private Schools	State Accrediting Agency	State Regents for Higher Ed.

State	Approval/licensing of Private, degree-granting Institutions	Approval of Vocational/Technical Schools	Approval of Proprietary Schools (Non degree-granting)	Veterans Approval	Planning Commission 1202-3
Ohio	Board of Regents	Dept. of Ed.	Board of School & College Registration	Dept. of Ed.	Board of Regents
Oregon	Educational Coordinating Commission	Bd. of Ed.	Bd. of Ed.	Bd. of Ed.	Educational Coordinating Commission
Pennsylvania	Dept. of Ed.	Dept. of Ed.	Dept. of Ed.	Private Schools & Veterans Ed.	State Bd. of Education
Rhode Island	Board of Regents	Dept. of Ed.	Dept. of Ed.	Dept. of Ed.	Postsecondary Education Commission
South Carolina	None	Dept. of Ed.	Dept. of Ed.	Dept. of Ed.	Commission on Higher Education
South Dakota	Postsecondary Regulatory Agency/Dept. of Ed. & Cultural Affairs	Postsecondary Regulatory Agency	Postsecondary Regulatory Agency	State Approval Agency	Planning Commission of Dept. of Ed. & Cultural Affairs
Tennessee	Higher Ed. Commission	Commission on PS Voc. Educational Institution Authorization	Higher Ed. Commission & Commission on Vocational Ed.	Dept. of Ed.	None
Texas	Coordinating Bd, Texas College & University System	State Education Agency	State Education Agency	State Education Agency	Govenor's Advisory Committee (temp.)
Utah	None	State Bd. of Regents	None	State Bd. of Regents	State Bd. of Regents
Virginia	State Council of Higher Ed.	Dept of Ed.	Dept. of Ed.	Dept. of Ed.	State Council of Higher Ed.
Vermont	State Board of Ed.	None	State Dept. of Ed.	State Dept. of Ed	Higher Education Planning Commission

State	Approval/licensing of Private, degree-granting Institutions	Approval of Vocational/Technical Schools	Approval of Proprietary Schools (Non degree-granting)	Veterans Approval	Planning Commission 1202-3
Washington	None	Dept. of Motor Vehicles	Coordinating Council for Occupational Education	Coordinating Council for Occupational Ed.; Dept. of Labor; State Supt of Public Instruction (3 agencies)	State Council for Post-secondary Education
West Virginia	Board of Regents	Dept. of Education	Dept. of Ed.	Dept. of Ed.	Bd. of Regents
Wisconsin	None		Educational Approcal Board	Dept. of Industry, Labor & Human Relations	None
Wyoming	Director State Dept. of Ed.	Licensing/Certification Services Unit	Licensing/Certification Services Unit	Veterans Ed.	None
Puerto Rico	None	State Dept. of the Commonwealth	State Dept. of the Commonwealth	Veterans Administration Office	Council on Higher Ed.

EDUCATION POLICY FELLOWSHIP PROGRAM (EPFP) (formerly Washington Internships in Education) is a national program designed to help provide future leaders the skills in policy-making they must have to exert effective and enlightened leadership in American education. Funds for the program are provided by the Ford and Rockefeller Foundations.

Since 1965, the program has placed over 250 mid-career persons in one-year internships in public and private agencies involved in educational policy matters. Carefully recruited sponsors, who are themselves key actors in public policy issues, agree to serve as on-the-job mentors by demonstrating, through their daily tasks, how educational policy is shaped at the State or national level. An important ingredient of the program is the informal weekly seminars through which Fellows interact with decision-makers, eminent authorities and leading specialists in education-related fields. National meetings of Fellows with other special groups contribute further to their understanding of educational policy-making. Fellows' salaries are paid by the sponsoring organizations, while the costs of recruitment, placement and continuing professional development are borne by the EPF Program. Headquartered in Washington with sites in four States, the EPF Program is designed for mid-career persons 25-45 years of age who have completed their academic training. Two-thirds of the forty-five participants in 1975-76 have completed the doctorate degree; all have demonstrated substantial leadership skills and a strong commitment to improving the educational system.

Although EPFP participants are widely considered to be prime candidates for excellent post-Fellowship positions, the EPF Program does not commit itself to obtaining future employment for them. Fellows frequently take leaves of absence from their pre-Fellowship position to participate in the program.

Illinois Coordinator—Robert Bunnell
Massachusetts Coordinator—Ursula Wagener
Michigan Coordinators—Carl Candoli & Matthew Prophet

EDUCATIONAL STAFF SEMINAR (ESS) is a professional development program designed for staff members employed by the Executive and Legislative branches of the Federal Government in the field of education. The goals of ESS are to provide an open forum in which participants can improve their professional capabilities and personal fulfillment on the job by:

a) being exposed to new ideas and perspectives;
b) increasing their knowledge of particular subjects and their understanding of how things actually operate in the field; and
c) meeting with other professionals involved in the legislative and policy formulation processes in an informal learning environment which fosters improved professional relationships.

ESS supplements the Washington work experience with a variety of in-service training seminars and in-the-field observation. It was established in 1969 and is funded by the Institute and by partial reimbursement from the governmental agencies served.

In fiscal year 1975, ESS conducted 73 programs for over 2200 Federal employees. Included were 16 field trips and 57 luncheon/dinner discussion meetings, site visits, demonstrations, and other executive development activities.

THE ASSOCIATES PROGRAM (TAP) is an evolving IEL activity whose emphasis up to now has been the provision of seminars and other forums for legislators and other policy-makers at State capitals. Begun in 1972 with three State educational seminars, TAP now sponsors 21 seminars, all manned by Associates who, on a part-time basis, arrange 5-10 programs annually.

Other TAP efforts—

Maintain a network of State-level "generalists" (Associates) whose ties to IEL in the nation's capital provide rare linkages among Federal and State education policy-setters.

Encourage similar linkages among agencies and coalitions seeking to improve processes of State-level decision-making.

Support attempts of individual State leaders (governors, chief state school officers, legislative committees, etc.) to improve policy-making machinery and to narrow the communications gap which separates political and professional leaders.

OTHER IEL ACTIVITIES

Under a grant from the Department of Health, Education and Welfare's Fund for the Improvement of Postsecondary Education, IEL has established an issue development service for consideration and transmission of key policy issues in postsecondary education. The **POST-SECONDARY EDUCATION CONVENING AUTHORITY (PECA)** sponsors conferences, research efforts, task force groups and publications focusing on such issues as institutional licensing, consumer protection, and State financing. During 1975-76 the program will add lifelong learning and public policy to its agenda.

IEL and National Public Radio co-produce the **"OPTIONS IN EDUCATION"** series, heard weekly over NPR's 179 member stations from coast to coast. Voice of America rebroadcasts the 1-hour programs, and IEL makes cassettes and transcripts available at minimum cost. In 1974 "Options" received awards from the Education Writers Association and the Council for the Advancement and Support of Education, Mason-Dixon Division. Funds for "Options in Education" are provided by IEL, National Institute of Education, U.S. Office of Education, Robert S. Clark Foundation, NPR, and other grantors.

Under contract from the Office of the Assistant Secretary for Education, HEW, IEL is planning major conference activity early in 1976 for educational decision-makers and administrators on the subject of institutional adjustment to changing sex roles. The goals of the **NATIONAL CONFERENCE ON WOMEN IN EDUCATION,** which include increasing training and career options for women in education and facilitating Title IX implementation, will be pursued in cooperation with women's group leaders, policy-makers and the educational community generally.

The **CAREER EDUCATION POLICY PROJECT (CEPP)** addresses the issues of education, work and society. Funded by the U.S. Office of Education, CEPP uses the resources of other IEL programs—ESS, TAP, "Option"—to inform both policy-makers and the public of the issues in the career education movement.